

1924
~~1923~~

KENYA

C.O.
1462
10 JAN 24

Mazadi
Kola Coy.

DATE

9th. Jan 1924

318

RELATION: -

SUBJECT

Reconstruction of the Company

S. of S.

accepts, in principle, terms
contained in C.O. letter of 3 Jan. 24,
but submits, for consid., certain
points arising out of draft lease.

S. of S.

S. of S.

S. of State

Previous Paper

MINUTES

SOS
1384

See minutes on 1384, which
should have been on this
book. — 1875.

WES 15.1.24.

atome

to 202

671/24

big memo to letter
17 JAN 1924

Subsequent Paper

S
3036

SUTTON, OSBORN & OLIVER

15, N. BROADWAY

15, N. BROADWAY, LONDON

LONDON WALL

3 & 4, GREAT WINGHESTER STREET,

LONDON, E.C.2

1488/1924

RECEIVED
3 OCT 1924
COLL OF 110

1st October 1924.

Sir,

Nagadi Soda Company Limited.

As requested by your letter of 30th ultimo, we have pleasure to hand you herewith three further prints of the two draft leases in favour of the Nagadi Soda Company Limited.

We have the honour to be,

Sir,

Your obedient SERVANTS.

Att. [Signature]

New [Signature]

The Under Secretary of State,
Colonial Office.

SUTTON, GOSNOLLY & OLIVER.

E. G. OLIVER
M. W. GOSNOLLY

15, ABINGDON ROAD, LONDON, E.C. 4.

15, ABINGDON ROAD, LONDON, E.C. 4.

3 & 4, GREAT WINCHESTER STREET,

LONDON, E.C. 2.

1482/1924

RECEIVED
- 3 OCT 1924
COL OFFICE

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Nagadi Soda Company Limited.

As requested by your letter of 30th ultimo, we have pleasure to hand you herewith three further prints of the two draft leases in favour of the Nagadi Soda Company Limited.

We have the honour to be,

Sir,

Your obedient servants,

Mr. Asst. Secy

W. H. ...

The Under Secretary of State,
Colonial Office.

LEASE LEASE.

Page 3. Omit definition (I) and re-number (J) as (I). Add (J) "Year" means calendar year ending on the 31st of October.

Page 4 Term. Read

"To hold unto the Lessee for the term of "about 99 years beginning on the "of , 1924 and ending on the "31st day October, 2023, yielding

Insert date of Registration (Company)

3. Line 3. Read

" 1st day of November in every year the payment in respect of the period up to the 31st day of October 1923 having been

4. (i) Read

"Until the expiration of the period ending "on the 31st day of October 1929 no Royalty... (ii) line 1 omit "of five years" line 2 for "June and December" read "April and October".

Page 5. Line 2. for "December" read "October" " 3 for "June" read "April".

(iii). Omit.

5. (iii). For "June" and "December" read "April" and "October".

Page 6.

(iv) line 2. ^{After cancellation of Soda} ~~Read~~ ^{delete the remainder of clause and substitute} "until the expiration of the Lease or its "sooner determination" or "until"

(v) (A) line 2 Read

"will in each of the last three years of the "period referred to in clause 4 (i) of this

this lease get and "

line 5 Read

"and in every year after the expiration of
"the said period will get and despatch by
"Railway"....."

line 10 Read

"In each of the first two years after the
"expiration of the said period not less than
"75,000 tons and in every subsequent year
"not less than 100,000 tons"

(B) line 5. Read

"but the amount making good such deficiency
"shall not also be taken as part of the tonnage
"stipulated for the latter year. No excess"

Page 8.

(xvi) line 4 after "removing" insert "ran"

Page 10.

(xxiii) (B) line 11 omit "such".

Page 13.

9. line 20. Read

"thereafter to reenter into"

line 21 Read

" name of the whole and to have again"

line 22 Read

"enjoy the same as in"

RAILWAY LEASE.

Page 3.

(1): Omit and renumber (M)

Add "Year" means calendar year ending on the
31st of October.

2. Line 2. for "the" read "the".

Page 4.

last line but one

After "over the Railway" insert "or to the Port"

Page 8.

Term. Follow table lease.

Page 9.

5. ~~Quit the whole and re-number.~~ (Subject to consultation with Government on whether there is a need for a new clause (v) of the lease.)

Page 10.

11 (A). Read

"During the period ending on the 31st of October 1933 (and thereafter until the same....)by the Lessees in respect ofas follows:-"

Quit third column of table.

Add

"Provided that the amount payable ^{in any year} ~~in~~ ^{exceeding} respect of tonnage ~~in excess of~~ 50,000 tons or 150,000 tons shall not be less than the amount payable in respect of 50,000 tons or 150,000 tons as the case may be, and provided further that the amount payable in any year shall not be less than the amount due in respect of the tonnage stipulated to be despatched in that year under clause 5 (v) (A) of the Nagadi Lease".

(S.V.A.)

Page 10.

11 (B) Delete and re-number C.

(C) (now (B))

(1) "At the expiration of the said period and of every subsequent period of five years the General Manager may increase the rate for the time being payable but so that the rate in force up to the 31st day of October 1933 shall not exceed the following :-"

Table. Quit third column and repeat the provision in (A). ^{as amended}

[This involves our leaving the promoters to protect over C (x) if they wish to.]

Page 11.

12. ~~the 1st~~ ^{delete} "of 99 years" read "of this lease".

19. line 2. Unit "of 50 years".

Page 12.

21 (A) Look up amount.

21 line 14 Unit "from and after Governor's Day".

At end add

"provided that for the period up to the 31st day of October 1939 there shall in determining the amount of the deficiency for any year be added to the amount of the Railway ^{seventeen shillings and 2 pence} rate of nine-sixteenths ^{with there is an of five eighths of a penny} of a penny per ton mile the amount of royalty which would have been due if the provisions of clause 4 (1) of the Magnal Lease had been applicable before the said date".

26.9.24

331

KENYA COLONY AND PROTECTORATE.

Lease

RAILWAY TO LAKE MALABAI

DATED

SUTTON, GARDNER & CO. LTD.

1, King Street, West London, E.C. 2

Printed in England

INDEX.

CLAUSE	PAGE
1. Interpretation	2
2. Demise of Railways to Lessees	3
Liberty to Lessees to construct telegraph and telephone lines	3
Exceptions	3
(i) All other minerals, precious stones, etc.	3
(ii) Liberty to construct telegraph and telephone lines	4
(iii) In case of urgency to take possession	4
(iv) Carriage of military, etc.	4
Term	5
3. Lease to determine if Magadi Lease determined	5
4. Lessees' covenants	5
(i) To pay rent	5
(ii) Sole management of the Railway to be vested in the Uganda Railway Administration	5
(a) The Railway to be worked as part of the Uganda Railway	5
(b) No preference to be given to Lessees	5
(c) The Uganda Railway Administration may make alterations and additions to the Railway	5
(iii) Lessees to pay freight and observe the provisions hereinafter contained	5
(iv) To deliver up	6
(v) Not to assign without licence	6
(vi) To give notice of finding any excepted minerals	7
(vii) Superfluous lands	7
(viii) To comply with Ordinances	7
(ix) Not to interfere with public or private rights	7
(x) To indemnify Government against claims	7
(xi) Contractors to provide office	7
(xii) No arms or ammunition to be sold to natives	8
(xiii) No spirituous liquor to be sold to natives nor imported excepted for Europeans	8
(xiv) As to liability of Lessees to special sanitary measures	8
(xv) Native labour	8
5. Lessees to complete the Railway to carry 160,000 tons per annum	8
6. Maintenance	9
7. Extraordinary repairs	9
8. Rolling stock	9
9. Protection of soda goods in transit	9

311

KENYA COLONY AND PROTECTORATE.

This Indenture made the _____ day of _____ 192

Between THE CROWN AGENTS FOR THE COLONIES (hereinafter referred to as "the Crown Agents") acting for and on behalf of The Government of the Kenya Colony and Protectorate (hereinafter referred to as "the Government") of the one part and the MAGADI SODA COMPANY LIMITED a Company incorporated pursuant to the laws of England under the Companies Acts 1908 to 1917 and having their registered office situate at Nos. 25 and 27 Bishopsgate in the City of London (hereinafter referred to as "the Lessees" which expression shall where the context so admits include their successors and permitted assigns) of the other part.

Whereas by an Indenture (hereinafter called "the Magadi Lease") bearing even date with and executed before these presents and made between the same parties as are parties hereto and in the same order the lands known as "Lake Magadi" have been demised to the Lessees for a term of Ninety-nine years from the _____ day of _____ 192, subject to the payment of the rent and royalties thereby reserved and the covenants on the part of the Lessees and the conditions therein contained for the purpose of working the deposits of carbonate of soda therein

Lease of Magadi Soda Deposits

And whereas for the purpose of working the said deposits the Lessees or their predecessors in title have at their own expense constructed the railway hereby demised and the port hereinafter defined upon lands provided by the Government.

Construction of the Railway and the Port

And whereas by an Indenture already prepared and engrossed and intended to bear even date with and to be executed immediately after these presents and made between the same parties as are parties hereto and in the same order the Port hereinafter defined is intended to be demised to the Lessees from the said _____ day of _____ 192 during such term as the Magadi Lease shall be subsisting.

The Port Lease

And whereas the said Railway hereby demised is now being and is intended to be worked and controlled by the Uganda Railway Administration hereinafter defined as part of the Uganda Railway.

And whereas the Government have agreed to grant and the Lessees have agreed to take a lease of the said Railway and it has been agreed that the same shall be in the form of these presents and shall contain such covenants and provisions as hereinafter contained.

Now this Indenture witnesseth and it is hereby agreed and declared as follows:

Interpretation

1. In these presents the following expressions or terms shall have the following meanings respectively:—

- (A) "The Colony" means the Kenya Colony and Protectorate.
- (B) "The Government" means the Government for the time being of the Colony.
- (C) "The Governor" means the Governor for the time being of the Colony or the person for the time being acting as such.
- (D) "The Uganda Railway Administration" means the Administration or authority for the time being working or managing the Uganda Railway.
- (E) "The Railway" means the railway hereby demised together with all works apparatus and conveniences to be made or supplied in connection therewith.
- (F) "The Lessees' Manager" means the person appointed by the Lessees to manage their business in the Colony.
- (G) "The General Manager" means the General Manager for the time being of the Uganda Railway.
- (H) "The Magadi Lease" means the first before recited Lease of even date herewith.
- (I) "The Magadi Soda Deposit" means the deposits of carbonate of soda included in and demised by the Magadi Lease.
- (J) "The Port" means the pier, depot, works, conveniences and siding at or near Kilindini included in and intended to be demised by the secondly before recited Lease of even date herewith.

- (K) "Soda Goods" means all or any of the following:—
 - (i) Raw soda that is to say carbonate of soda and/or carbonate of soda mixed with any other salts as obtained from the Magadi Soda Deposit before calcination.
 - (ii) Soda that is to say soda ash, carbonate of soda and/or other salts of soda as obtained from raw soda as above mentioned.
 - (iii) Soda products that is to say soda crystals, caustic soda, bicarbonate of soda and/or any other commodities or preparations which are recognised as soda products in the chemical industry.
 - (iv) Manufactured soda that is to say manufactured articles or merchandise of which soda or soda products as above mentioned respectively form the essential or main constituents.
- (L) "Governor's Day" means such day after the date of the incorporation of the Lessees as the Governor shall fix for the commencement of the period of five years herein mentioned.
- (M) "Month" means calendar month.

2. The Crown Agents for and on behalf of the Government hereby grant and demise to the Lessees All that Railway constructed by the Lessees or their predecessors in title wholly in the Colony commencing by a junction with the Uganda Railway known as Magadi Junction and thence passing to a terminus near Lake Magadi together with all lands which have been provided by the Government for the purpose of the construction and working of the Railway and are now in the possession of the Lessees or of the Uganda Railway Administration.

Demise of Railway to Lessees

Together with full and free right and liberty for the Lessees to construct maintain renew repair and use any telegraph or telephone line or lines for the purposes of the Lessees' own business in connection with the Railway and the working of the Magadi Soda Deposit or either of them in along or over the demised premises or any part or parts thereof Provided always that the right and liberty aforesaid shall not be exercised so as to interfere with the working of the Railway by the Uganda Railway Administration under the provisions in that behalf hereinafter contained.

Liberty to Lessees to construct telegraph and telephone lines

Excepting nevertheless out of the demise hereby made and reserving unto the Crown Agents for and on behalf of the Government as follows:—

Exceptions

- (1) All mines minerals and mineral substances including precious stones and all coins treasure relics antiquities and other similar

All other minerals precious stones etc.

things lying in on or under the demised premises other than carbonate of soda with full and free right and liberty for the Crown Agents and the Government and their Lessees and persons authorised by them to search for sink to work get raise carry away and dispose of the same and for such purposes to sink drive erect make and use all such pits shafts drifts roads tunnels airways watercourses railways tramways and other roads through across or under the demised premises as shall be necessary or convenient. Provided always that the right and liberty aforesaid shall be exercised in such a manner as not to interfere with the working of the Railway or to cause any subsidence of the Railway or of any building or work connected therewith and provided also that the person or persons exercising such right and liberty shall make good or pay reasonable compensation for all damage thereby occasioned to the demised premises.

Liberty to construct telegraph and telephone lines

- (ii) Full and free right and liberty for the Government to construct maintain renew repair and use any telegraph or telephone line or lines for the use of the Government in along or over the demised premises or any part or parts thereof and full and free right and liberty for the Government and persons authorised by them to enter upon and occupy so much of the demised premises as may be necessary for the said purposes or any of them without making any compensation therefor but making good all damage done. Provided always that the rights and liberties last aforesaid shall be exercised in such a manner as not to interfere with the efficient working of the Railway.
- (iii) Full and free right and liberty for the Government in any case of urgency (as to the existence of which the Government shall be the sole judge) at any time or times without any consent of or notice to the Lessees to take temporary possession of the whole or any part of the Railway and the rolling stock telegraphs telephones buildings and other things of every description belonging to the Lessees in connection with the Railway and to use the same for its own purposes paying nevertheless therefor reasonable compensation to the Lessees.
- (iv) Full and free right and liberty for the Government at any time or times to have any military marine or police force arms horses guns ammunition baggage or stores mails mail-bags or post office requisites or things conveyed over the Railway in priority to any other traffic and in any case of urgency (as to

In case of urgency take possession

Carriage of military stores

the existence of which the Government shall be the sole judge) with all the resources of the Railway.

To hold unto the Lessees for the term of 99 years from the day of 192 if the Magadi Lease shall so long continue to subsist and be effective at the yearly rent of five shillings payable yearly in advance without any deduction on the day of in every year the first of such payments for the first year of the said term having been made on the execution of these presents as the Crown Agents and the Government hereby acknowledge.

Term

3. If the Magadi Lease shall be determined in any manner whatsoever then this Lease shall *ipso facto* determine also but without prejudice to any right of action or remedy of the Crown Agents or the Government in respect of any antecedent breach by the Lessees of any of the covenants or provisions herein contained.

Lease to determine if Magadi Lease determined

4. The Lessees for themselves their successors and assigns hereby covenant with the Crown Agents and also as a separate covenant with the Government as follows:—

Lease to determine if Magadi Lease determined

- (i) The Lessees will pay the rent hereinbefore reserved at the times and in the manner aforesaid.
- (ii) The sole and exclusive control and management of the Railway shall be vested in the Uganda Railway Administration and the following provisions shall have effect:—
 - (A) The Uganda Railway Administration shall work the Railway as a branch of the Uganda Railway and as part of the general system of railways operated by the General Manager.
 - (B) The Lessees shall not claim or be entitled to receive from the Uganda Railway Administration any preference or priority whatsoever as to transport or the supply of locomotives or rolling stock or the maintenance or equipment of the Railway or otherwise howsoever.
 - (C) The Uganda Railway Administration may at their own expense at any time or times make any alteration or addition to the Railway for the purpose of accommodating traffic other than traffic of the Lessees.
- (iii) The Lessees shall pay the charges for freight hereinafter specified at the times and in manner hereinafter provided and shall at all times duly pay all such other charges and all such moneys and do and perform all such acts and things as under the provisions hereinafter in this Lease contained are by them to be paid done or performed.

To pay rent

Sole management of the Railway to be vested in the Uganda Railway Administration

The Railway to be worked as part of the Uganda Railway

No preference to be given to Lessees

The Uganda Railway Administration may make alterations and additions to the Railway

Lessees to pay freight and observe the provisions hereinafter contained

To deliver up

(iv) The Lessees will at the expiration or sooner determination of the term hereby granted deliver up to the Government the demised premises with all buildings and fixtures thereon except such fixtures and things as the Lessees are by law entitled to remove in such state and condition in all respects as shall be consistent with the due performance and observance of the provisions herein contained and in proper order for the future working of the Railway.

Not to assign without licence

(v) (A) The Lessees shall not assign underlet or part with the possession of the demised premises or any part thereof (except to the Uganda Railway Administration in accordance with the provisions hereof) or suffer any corporation (other than the Lessees) or any person to occupy the demised premises or any part thereof as a licensee without the previous consent in writing of the Crown Agents but such consent shall not be unreasonably withheld.

(B) Provided always that the Crown Agents may withhold such consent unless the Lessees shall before the assignment or underlease or any agreement for the same shall be executed deliver to the Crown Agents an indenture to be prepared by the solicitors for the time being of the Crown Agents at the cost of the Lessees containing a covenant by the intended assignee or underlessee with the Crown Agents and also separately with the Government to perform and observe during the term assigned or granted to him the covenants by the Lessees and conditions in these presents contained in the same manner as if such covenants and conditions were therein repeated with the substitution of the name of the intended assignee or underlessee for the name of the Lessees and with such other alterations as the circumstances shall render necessary and also containing a provision determining the term thereby assigned or granted on breach of any of the said covenants by the intended assignee or underlessee.

(C) Provided also that upon any assignment of the demised premises or any part thereof being made in accordance with these presents if such indenture as hereinbefore in this clause mentioned shall have been duly executed by the assignee and delivered to the Crown Agents then the Lessees making the assignment shall thereupon cease to be personally liable under any of the covenants or obligations of these presents so far as the same relate to the premises comprised in such assignment but without prejudice to any right of action or remedy of the Crown Agents or the

Government in respect of any antecedent breach by the Lessee of any of such covenants or obligations.

(vi) If and whenever any excepted mineral (that is to say any mine mineral or mineral substance precious stone coin treasure relic antiquity or other similar thing excepted out of the demise hereby made) shall be found in or upon the demised premises the Lessees shall forthwith give notice thereof to the Government and take all reasonable steps for the safe preservation thereof.

To give notice of finding any excepted minerals

(vii) (A) If and whenever any of the demised lands shall in the opinion of the General Manager be or become unnecessary for the purposes of the Railway the Lessees shall at any time thereafter upon the request in writing of the Government forthwith surrender the same to the Government.

Superfluous lands

(B) If any difference shall arise as to whether any land is or is not unnecessary for the purposes of the Railway such difference shall be referred to arbitration under the provisions in that behalf hereinafter contained.

(viii) The Lessees shall comply with all obligations which may be imposed on them by any General Ordinance for the time being in force in the Colony.

To comply with Ordinances

(ix) In everything done hereunder the Lessees shall interfere with public and private conveniences and rights as little as possible and shall take all such precautions and provide and maintain all such temporary and permanent accommodation works as shall be reasonably required for the prevention of damage or injury to any property or person or for the due preservation or maintenance of any public right or property.

Not to interfere with public or private rights

(x) The Lessees shall be solely responsible for and shall indemnify and keep indemnified the Government against all accidents damages claims and losses which may occur or be incurred or claimed in or by reason of anything done upon the demised premises or any part thereof and if the Government shall make any payment in respect of such damages claims or losses then and in every such case the Lessees shall repay to the Government on demand the amount of the money so paid and of the costs incurred therein by the Government but this clause shall not extend to any accident damage claim or loss which may occur or be incurred or claimed in or by reason of the working of the Railway by the Uganda Railway Administration unless the same shall have arisen from some neglect or default of the Lessees.

To indemnify Government against claims

Construction to provide offices

(xi) The Lessees shall at all times provide a suitable office on the site of the Railway or the Uganda Railway where notices may be left for or addressed to the Lessees.

No arms or ammunition to be sold to natives

(xii) The Lessees shall not at any time during the term hereby granted sell give barter or otherwise dispose of any arms or ammunition of any description to any native or permit or suffer any such sale gift barter or other disposition to be made by any employee or agent of the Lessees.

No spirituous liquor to be sold to natives nor imported except for Europeans

(xiii) The Lessees shall not at any time during the term hereby granted sell give barter or otherwise dispose of any spirituous liquor to any native or permit or suffer any such sale gift barter or other disposition to be made by any employee or agent of the Lessees or import or authorise the importation of any spirituous liquor into the Colony except for the use of the European agents or employees of the Lessees and in accordance with and subject to such rules as may from time to time be made by the Governor in that behalf.

Approval of Government

(xiv) If the Government shall at any time during the term hereby granted incur any expenditure in erecting or maintaining any sanitary works or regulations upon or in the neighbourhood of the Railway the Lessees shall so far as such expenditure is rendered necessary or increased by the operations of the Lessees or by the presence of the agents or workmen of the Lessees upon or in the neighbourhood of the Railway pay to the Government on demand as a contribution towards the said expenditure such proportion as shall be just and equitable in the circumstances such proportion in case of difference to be settled by the Governor.

Sanitation

(xv) The Lessees shall at all times during the term hereby granted comply with all such requirements and make all such arrangements as may be made or directed by the Government to secure the suitable treatment of native labourers or workmen.

Lessees to complete the Railway to carry 100,000 tons per annum

(xvi) The Lessees shall (if and so far as the same shall not have been done before the date of these presents) forthwith complete and equip the Railway so as to be efficient to carry at least 100,000 tons of soda goods in any one year.

(ii) The Lessees shall do the work aforesaid in accordance with any directions from time to time given by the General Manager and to his reasonable satisfaction in all respects.

(iii) All the costs of construction and equipment of the Railway as aforesaid and of all labour and materials for the same shall be borne and paid by the Lessees.

(iv) The Lessees shall not be bound to incur a cost exceeding the sum of £15,000 in respect of the work aforesaid after the date of these presents.

6. (i) The Uganda Railway Administration shall at their own expense maintain the Railway so completed and equipped as aforesaid and keep the same in working order.

(ii) Nothing in this Lease contained shall impose or be deemed or construed to impose any liability upon the Crown Agents the Government or the Uganda Railway Administration to fit, equip or maintain the Railway so as to be capable of carrying more than 100,000 tons of soda goods in any one year.

7. The Lessees shall at their own cost do all and any extraordinary repairs and renewals to the Railway properly attributable to capital expenditure and any difference as to whether any repairs or renewals are extraordinary repairs properly attributable to capital expenditure shall be referred to arbitration under the provisions in that behalf hereinafter contained.

8. (i) The Uganda Railway Administration shall provide and maintain all locomotives and rolling stock necessary for the efficient working of the Railway.

(ii) The Uganda Railway Administration shall not be bound to provide tank cars or any special wagons or conveniences for the carriage of liquid fuel and the Lessees shall provide and maintain such tank cars special wagons and conveniences (if any) as the Lessees may require for the carriage of their liquid fuel.

9. The Uganda Railway Administration shall carry all soda goods in trucks properly protected from the weather and from dirt.

10. The service of loading and unloading the Lessee's goods at the respective places of departure and destination shall in all cases be performed by and at the sole expense of the Lessees but the service (if any) of loading and unloading at any intermediate place shall in all cases be performed by and at the sole cost of the Uganda Railway Administration.

Rates of freight for Soda Goods carried by the Port

11. The rates of freight for soda goods consigned by the Lessees direct from Lake Magadi or any other point on the Railway to the Port by the Railway to Magadi Junction and thence over the Uganda Railway shall be as follows:—

- (A) During the period of the first five years from and after Governor's Day (and thereafter until the same shall be increased as hereinafter provided) the rate payable by the Lessees and the minimum total amount payable by the Lessees in respect of the said freight in each year of the same period and thereafter until as aforesaid shall be according to the total weight of soda goods carried in such year as follows:

Number of Tons	Rate per ton	Minimum yearly payment.
Not exceeding 50,000 ...	18s. 0d.	Nil
Exceeding 50,000 but not exceeding 150,000 ...	17s. 0d.	£45,000
Exceeding 150,000	16s. 6d.	£127,500

- (B) During the period (if any) from the commencement of the term hereby granted to Governor's Day the rates shall be the same as hereinbefore specified and any excess of the last-mentioned period over a completed year or completed years shall for the purpose of calculating the minimum total amount payable be reckoned as a year.
- (c) (i) At the expiration of the first and every subsequent period of five years from and after Governor's Day the General Manager may increase the rate for the time being payable but so that the rate in force during the second or third period of five years from and after Governor's Day shall not exceed the following:—

Number of tons	Rate per ton	Minimum yearly payment.
Not exceeding 50,000 ...	22s. 0d.	Nil
Exceeding 50,000 but not exceeding 150,000 ...	20s. 0d.	£33,000
Exceeding 150,000 ...	18s. 0d.	£160,000

- (ii) Every increase of rate as aforesaid shall be made by the General Manager who shall give to the Lessees not less than six months' notice in writing in that behalf to expire at the end of the then current period of five years.
- (iii) The General Manager shall not give notice of any such increase unless he shall consider the same reasonable having regard to the prevailing and probable cost of working the traffic and the selling price of the soda goods or any of them.
- (iv) The General Manager shall so soon as conveniently may be after service of any such notice deliver to the Lessees a statement of the cost of working the traffic of the soda goods during the period of the first six months of the last year of the then current period of five years.
- (v) The Lessees may within one month after receipt of any such statement of cost serve upon the General Manager notice referring the increase to arbitration in accordance with the provisions in that behalf hereinafter contained and in such case the validity of such increase shall be determined accordingly.
- (vi) In such arbitration regard shall be had to the prevailing and probable cost of working the traffic and to whether the prevailing and probable selling price of the soda goods permits an increase in the rate of freight and to all other considerations which the arbitrator or their umpire may consider material.
- (vii) The award may allow the increase or any part thereof or may disallow the same and shall be confined and restricted within these limits accordingly.
- (viii) If the award shall not be made before the commencement of the period of five years to which the notice of increase relates the Lessees shall pay the increased rate specified in the notice as from the commencement of the said period and all proper adjustments and allowances consequential upon the award shall be made after award made.
- (ix) An increased rate shall continue in force for the period of five years to which it relates and thereafter until again increased as hereinbefore provided.
- (x) The General Manager may at any time by notice to the Lessees decrease the rate for the time being in force and such decrease shall take effect from the time mentioned in the notice but any such decrease may be revoked at any time by the General Manager by a further notice in that behalf given to the Lessees.

II

- (ii) Every increase of rate as aforesaid shall be made by the General Manager who shall give to the Lessees not less than six months' notice in writing in that behalf to expire at the end of the then current period of five years.
- (iii) The General Manager shall not give notice of any such increase unless he shall consider the same reasonable having regard to the prevailing and probable cost of working the traffic and the selling price of the soda goods or any of them.
- (iv) The General Manager shall so soon as conveniently may be after service of any such notice deliver to the Lessees a statement of the cost of working the traffic of the soda goods during the period of the first six months of the last year of the then current period of five years.
- (v) The Lessees may within one month after receipt of any such statement of cost serve upon the General Manager notice referring the increase to arbitration in accordance with the provisions in that behalf hereinafter contained and in such case the validity of such increase shall be determined accordingly.
- (vi) In such arbitration regard shall be had to the prevailing and probable cost of working the traffic and to whether the prevailing and probable selling price of the soda goods permits an increase in the rate of freight and to all other considerations which the arbitrators or their umpire may consider material.
- (vii) The award may allow the increase or any part thereof or may disallow the same and shall be confined and restricted within these limits accordingly.
- (viii) If the award shall not be made before the commencement of the period of five years to which the notice of increase relates the Lessees shall pay the increased rate specified in the notice as from the commencement of the said period and all proper adjustments and allowances consequential upon the award shall be made after award made.
- (ix) An increased rate shall continue in force for the period of five years to which it relates and thereafter until again increased as hereinbefore provided.
- (x) The General Manager may at any time by notice to the Lessees decrease the rate for the time being in force and such decrease shall take effect from the time mentioned in the notice but any such decrease may be revoked at any time by the General Manager by a further notice in that behalf given to the Lessees.

Rates for other goods and fares for passengers

12. Except as hereinbefore provided the rates for goods and the fares for passengers carried over the Railway shall be fixed from time to time by the General Manager according to the scale for the time being and from time to time in force on the Uganda Railway.

Freight to be payable in advance

13. (i) All freight charges shall be payable in advance

(ii) Any freight charge not paid in advance shall carry interest until actual payment thereof at the following rates that is to say during the first six months from and after the day on which the same should have been so paid in advance at the rate of £4 per cent. per annum and thereafter at the rate of £6 per cent. per annum.

(iii) The Lessees shall procure the payment of all freight charges not paid in advance to be secured by guarantees to the satisfaction of the Crown Agents

14. The Lessees shall pay demurrage on trucks belonging to the Uganda Railway Administration according to the rates of the Uganda Railway Administration for the time being in force.

15. Provided always and these presents are upon the express conditions following:-

Lessees to be and remain British

(i) The Lessees and any company or corporation becoming by assignment or otherwise entitled to the term hereby granted or any part thereof or to possession of the demised premises or any part thereof shall be and remain British in constitution and character registered in Great Britain or in a British Colony and having their principal place of business within His Majesty's dominions and the Chairman and at least four-fifths in number of the Directors of the Lessees or any such company or corporation as aforesaid shall at all times be and remain British subjects

(ii) In the event of any alteration being proposed in the Memorandum or Articles of Association or constitution of the Lessees or any such company or corporation as aforesaid notice thereof shall be given in writing to the Crown Agents who if in their opinion the said alteration shall be contrary to the cardinal principle that the Lessees and any such company or corporation as aforesaid shall be and remain a British company under British control may refuse their consent to such alteration.

(iii) If and whenever any such alteration shall be made without the written consent of the Crown Agents or if the Chairman and at least four-fifths in number of the Directors thereof shall not be

British subjects the Crown Agents may thereupon forthwith by notice served on the Lessees or such company or corporation as aforesaid as the case may be determine the demise hereby made without making any compensation but without prejudice to any right of action or remedy of the Crown Agents or the Government in respect of any antecedent breach of any of the covenants by the Lessees or conditions herein contained.

16. The Crown Agents hereby covenant with the Lessees as Lessee's Covenants follows:-

(i) The Lessees paying the rent hereby reserved and observing and performing the covenants and conditions herein contained and on the Lessees' part to be observed and performed shall and may peaceably and quietly possess and enjoy the demised premises during the said term without any lawful interruption from or by the Crown Agents or the Government or any persons rightfully claiming from or under them.

For quiet enjoyment

(ii) That the Uganda Railway Administration and the General Manager will at all times observe the provisions of this Lease so far as the same relate to acts and things to be performed or done by the Uganda Railway Administration or the General Manager.

For acts to be done by the Uganda Railway Administration

17. Provided always that if and whenever the said rent hereby reserved or any part thereof shall be in arrear for the space of sixty days next after any of the days whereon the same ought to be paid as aforesaid (whether the same shall or shall not have been legally demanded) or if there shall be any breach or non observance of any of the covenants on the part of the Lessees (whether negative or affirmative) herein contained or if the Lessees while the demised premises or any part thereof remain vested in them shall go into liquidation whether voluntary or compulsory (except with the consent in writing of the Government a voluntary liquidation for the purpose of re-construction only) or suffer a receiver of their undertaking or any part thereof to be appointed by any Court of competent jurisdiction or commit any act which would render the Lessees liable to be wound up on petition or in the case of assigns of the Lessees not being a corporation shall or any of them shall become bankrupt or make any assignment for the benefit of or enter into any arrangement for composition with their or his creditors then and in any of the said cases it shall be lawful for the Crown Agents or the Government although they may not have taken advantage of some previous default of the like nature at any time thereafter into and upon the demised premises or any part thereof in the same of the whole to re-enter and the

Proviso for re-entry

same to have again re-possess and enjoy as in their former estate. And thereupon the Lease shall cease and determine but without prejudice to any right of action or remedy which may have accrued to the Crown Agents or the Government in respect of any antecedent breach by the Lessees of any of the covenants or provisions herein contained provided that this proviso for re-entry shall be subject to all such restrictions and conditions and such relief against forfeiture as shall for the time being be applicable under the laws of England to provisions for re-entry contained in leases of similar property in England.

18. At the expiration of the term of 99 years hereby granted (but not on the sooner determination of the said term) the Railway and all the asset and property whatsoever of the Lessees used for the purposes of or in connection with the Railway shall immediately on the expiration of the said term and free from all payment be and become the property of the Government.

19. If this Lease shall be determined otherwise than by effluxion of the said term of 99 years the Government shall have the right to purchase the Railway and all the assets and property whatsoever of the Lessees used for the purposes of or in connection with the Railway at the price hereinafter mentioned upon giving to the Lessees one month's notice in writing in that behalf such notice to be given within one month next after the determination of the Lease.

20. (a) The Government shall have the right at any time during the continuance of the term hereby granted to purchase the Railway and all the assets and property whatsoever of the Lessees used for the purposes of or in connection with the Railway and all the interest of the Lessees under these presents at the price hereinafter mentioned upon giving to the Lessees one year's notice in writing in that behalf.

(m) If the Government shall exercise this present right then from and after the completion of the purchase until the expiration or sooner determination of the Magadh Lease the Lessees shall be entitled to the following rights and privileges:

- (A) The right to use and work for the purpose of the Lessees' own business in connection with the working of the Magadh Soda Works such telegraph and telephone lines as the Lessees before the date of the notice exercising the said option may have constructed under the Liberty in that behalf hereinbefore granted;
- (B) The right to have their goods conveyed in the manner and at the rates hereinbefore prescribed.

At end of the 99 years' term the Railway and all assets to belong to the Government

Option to the Government to purchase on annuity determination

Option to the Government to purchase at any time

If option exercised, the Lessees to have certain rights

Telegraph and telephone lines

Conveyance of goods

21. The price payable by the Government upon a purchase under the exercise of either of the aforesaid rights shall be ascertained by deducting the sums hereinafter mentioned from the aggregate of the two following sums namely:-

- (A) The sum of £ being the agreed amount of the capital outlay made by the Lessees in the construction of the Railway prior to the date hereof.
- (B) All sums expended by the Lessees after the date hereof and prior to the date of the notice exercising the option upon extraordinary repairs and renewals properly attributable to capital expenditure.

The sums (if any) to be deducted from the aggregate of the two above-mentioned sums shall be ascertained as follows: If and whenever in any year (from and after Governor's Day) the amount of freight rates payable by the Lessees shall fall short of a Railway rate on such freight of nine-sixteenths of a penny per ton mile then and in every such case the amount of the deficiency together with compound interest thereon at the rate of 4 per cent. per annum calculated with half yearly rests from the expiration of the year in which such deficiency occurs down to the date of completion of the purchase shall be deducted in ascertaining the price to be paid by the Government as aforesaid.

22. The rights of purchase hereinafter conferred on the Government are without prejudice to all or any other the rights of the Crown Agents or the Government under or by virtue of these presents.

23. Every debenture or other instrument creating or purporting to create any charge upon the Railway or any other asset or property of the Lessees subject to the rights of purchase aforesaid shall contain or have endorsed thereon notice of the said rights of purchase.

24. All and every the assets and property purchased by the Government as aforesaid shall be conveyed or delivered to the Government on completion of the purchase free from incumbrances.

25. The General Manager may from time to time and at any time delegate to assistants all or any of his powers, rights, authorities or discretions whether vested in him hereunder or otherwise as he may think fit and the Lessees shall on written notice of such delegation recognize such assistants as lawfully exercising the powers, rights, authorities or discretions so delegated to them.

Rights of purchase not to prejudice other rights

Notice of these provisions to be endorsed on debentures

Property to be conveyed free from incumbrances

General Manager may delegate

Members of offices of Government not to be personally liable

26. No member or officer of the Government or the Crown Agents shall be in anywise bound personally for the acts and obligations of the Government under these presents or answerable for any default or omission in the observance or performance of any of the acts matters or things which are hereby made obligatory on the Government or the Crown Agents

Certificate of the Governor

27. A certificate signed by the Governor shall be conclusive evidence of any order requirement determination or appointment of the Government mentioned in such certificate.

Notice how to be given to Lessees

28. Every approval consent or notice to be given or served by or on behalf of the Government or the Crown Agents for the purposes of these presents shall be in writing under the hand of the Governor or of the Crown Agents or one of them or any person authorised on their behalf or of the General Manager and shall either be delivered to or left for the Lessees at the office hereinbefore covenanted to be provided and maintained by them or at their registered office for the time being in England or at their principal or last known place of business in the Colony.

Provision for arbitration

29. Except in cases (if any) in which these presents expressly provide to the contrary no failure or omission by the Lessees in the observance or performance of any of the stipulations agreements or conditions herein contained and on the part of the Lessees to be observed or performed shall give rise to any claim or demand against the Lessees or in any manner operate to the prejudice of the Lessees or be deemed a breach of any covenant or obligation on the part of the Lessees hereunder whether express or implied if it be shewn to the reasonable satisfaction of the Governor that the default has arisen from any of the following causes namely: the act of God insurrection riots war strikes or combinations or lockouts of workmen not properly attributable to the improper acts or defaults of the Lessees or any other circumstances whether *quodam generis* with the foregoing circumstances or not which in the opinion of the Governor may be beyond the reasonable control of the Lessees. And if and so often as anything which the Lessees hereby agree to do within any specified time shall be delayed by any such cause such specified time shall be proportionately extended.

Provision for arbitration

30. In case and so often as any dispute difference or question shall arise between the parties hereto or any Government Corporation Company or person claiming through or under them respectively or between any of such parties Governments Corporations Companies

or persons concerning or relating to the subject matter of these presents or any part thereof or the construction meaning or effect of these presents or of any award made in pursuance hereof or any clause or thing contained herein or in any such award as aforesaid or the rights or liabilities of any party hereto or of any such Governments Corporation Company or person as aforesaid hereunder or under any such award as aforesaid then (except in any case and as to any matter for which other provision is herein made) the subject of every such dispute difference or question shall in every case on the demand in writing of either party be referred to the arbitration and award of an umpire if the parties can agree to an umpire and in case they cannot so agree then of two arbitrators one to be appointed by each party to the reference, and an umpire to be appointed by the two arbitrators or if such two arbitrators fail for one month after their appointment to appoint an umpire by His Majesty's Secretary of State for the Colonies for the time being. The decision of such umpire or arbitrators as the case may be shall be final and without appeal and binding upon all parties. If either party to any dispute difference or question make default in appointing an arbitrator within three months after the other party has given him or them notice to appoint the same the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference and his award shall be final and binding upon all parties and all the provisions herein contained with reference to the proceedings of two arbitrators and an umpire shall *mutatis mutandis* be applicable to such sole arbitrator.

Arbitrators may make partial awards

31. The arbitrators and umpire shall have full power to make if they or he think fit several awards instead of one award and every such award though not on the whole matter shall be final so far as it extends and as if the matter awarded on were the whole matter referred.

May proceed ex parte

32. The arbitrators and umpire shall have full power to proceed in the absence of both or either of the parties after giving to both parties such notice as the arbitrators or umpire may think sufficient of their or his intention to proceed.

May inspect books and accounts and examine on oath

33. The arbitrators and umpire shall have full power to inspect the books documents and accounts of both parties to the reference or either of them and to examine on oath or affirmation or on statutory declaration in lieu of oath the officers agents servants and witnesses of the parties respectively.

And provide for costs

34. The costs of the reference and award shall be in the discretion of the arbitrators and umpire and such costs may be awarded as between solicitor and client.

Marginal notes

35. The marginal notes hereto are for the sake of convenience only and shall not affect the interpretation or construction of these presents.

In witness whereof one of the Crown Agents has hereunto set his hand and seal and the Lessees have caused their common seal to be hereunto affixed the day and year first above written.

Signed Sealed and Delivered by
 one of
 the Crown Agents for the Colonies
 in the presence of

The Common Seal of the Magadi
 Soda Company Limited was here-
 unto affixed in the presence of

Directors.

Secretary.

Marginal notes

35. The marginal notes hereto are for the sake of convenience only and shall not affect the interpretation or construction of these presents.

In witness whereof one of the Crown Agents has hereunto set his hand and seal and the Lessees have caused their common seal to be hereunto affixed the day and year first above written.

Signed Sealed and Delivered by
 one of
 the Crown Agents for The Colonies
 in the presence of _____

The Common Seal of the Magadi
 Soda Company Limited was here-
 unto affixed in the presence of _____

 Directors.

 Secretary

26.9.24

333

KENYA COLONY AND PROTECTORATE

Lease

OF

**LAKE MAGADI AND OTHER LANDS IN KENYA
COLONY AND PROTECTORATE FOR WORKING OF
SODA DEPOSITS.**

DATED

192

SUTTON, OMBEYENY & OLIVER,

3 & 4 Great Winchester Street,

London, E.C.2.

INDEX.

CLAUSE	PAGE
1. Interpretation—	1
(A) "The Colony"	1
(B) "The Government"	1
(C) "The Governor"	1
(D) "The Magadi Soda Deposit"	1
(E) "Raw Soda"	1
(F) "Soda"	1
(G) "Soda products"	2
(H) "Manufactured Soda"	2
(I) "Governor's Day"	2
(J) "Month"	2
2. Demise	3
Term	3
3. Fixed rent	4
4. Royalties	4
5. Covenants by Lessees	5
(i) To pay rent and royalties	5
(ii) To keep books	5
(iii) To render accounts	5
(iv) To work	6
(v) Yieldly minimum workings	6
Average	6
(vi) To pay for soda lost or wasted	6
(vii) To leave soda unworked for support	6
(viii) Not to obstruct working of excepted minerals	7
(ix) To keep works in repair	7
(x) To permit entry and view	7
(xi) To comply with Ordinances	7
(xii) Not to interfere with public or private rights	7
(xiii) To indemnify Government against claims	8
(xiv) To provide office for service of notices	8
(xv) No arms or ammunition to be sold to natives	8
(xvi) Not to infringe native rights	8
(xvii) No spirituous liquor to be sold to natives nor imported except for Europeans	8
(xviii) As to liability for special sanitary measures	9

KENYA COLONY AND PROTECTORATE.

This Indenture made the _____ day of _____ 192

Between The CROWN AGENTS FOR THE COLONIES (hereinafter referred to as "the Crown Agents") acting for and on behalf of the Government of Kenya Colony and Protectorate (hereinafter referred to as "the Government") of the one part and THE MAGADI SODA COMPANY LIMITED a Company incorporated pursuant to the laws of England under the Companies Acts 1908 to 1917 and having their registered office at Nos. 25 and 27 Bishopsgate in the City of London (hereinafter referred to as "the Lessee" which expression shall where the context so admits include their successors and assigns) of the other part.

Whereas the Lessee are desirous of working certain deposits of carbonate of soda at Lake Magadi in Kenya Colony and Protectorate and have agreed to take and the Government have agreed to grant a Lease of the lands and premises hereinafter mentioned for the term and subject to the provisions and conditions hereinafter appearing:

Now this Indenture witnesseth as follows that is to say:—

1. In these presents the following expressions or terms shall have Interpretation the following meanings respectively:—

- (A) "The Colony" means Kenya Colony and Protectorate. "The Colony"
- (B) "The Government" means the Government for the time being of the Colony. "The Government"
- (C) "The Governor" means the Governor for the time being of the Colony or the person for the time being acting as such. "The Governor"
- (D) "The Magadi Soda Deposit" means the deposits of carbonate of soda included in the demise hereby made. "The Magadi Soda Deposit"
- (E) "Raw Soda" means carbonate of soda ^{and} carbonate of soda mixed with any other salts as obtained from the Magadi Soda Deposit before calcination whether loose or packed. "Raw Soda"
- (F) "Soda" means soda ash, carbonate of soda ^{and} other salts of soda as obtained from raw soda as above defined and whether loose or packed. "Soda"

"Soda Products"

(i) "Soda Products" means soda crystals, caustic soda, bicarbonate of soda ^{and} any other commodities or preparations which are recognised as soda products in the chemical industry and whether loose or packed.

"Manufactured Soda"

(ii) "Manufactured Soda" means manufactured articles or merchandise of which soda or soda products form the essential or main constituents and whether loose or packed.

"Governor's Day"

(iii) "Governor's Day" means such day after the date of the incorporation of the Lessees as the Governor shall fix for the commencement of the period of five years mentioned in Clause 4 and elsewhere in these presents.

"Month"

(iv) "Month" means calendar month.

Lessee

2. The Crown Agents for and on behalf of the Government in consideration of the rent and royalties hereinafter reserved and the covenants and conditions on the part of the Lessees to be observed and performed hereinafter contained hereby grant and demise unto the Lessees First all that rectangular piece of land forming part of the Colony and known as Lake Magadi together with all or any the deposits of carbonate of soda therein which piece of land is situate as near as can be ascertained between latitude $1^{\circ} 40'$ and $2^{\circ} 5'$ South and extends from longitude $36^{\circ} 10'$ East to longitude $36^{\circ} 20'$ East and is delineated on the map attached to these presents and thereon surrounded by a red line Together with the land on the shores of such lake necessary for working the said deposit as shown on the said Plan which premises together include an area of approximately 306 square miles And secondly all that triangular piece of land forming part of the Colony and situate near the Northernly end of the Natron Lake which piece of land includes an area of approximately 18 square miles and lies as near as can be ascertained to the Southward of latitude $2^{\circ} 5'$ South and between longitude 36° and $36^{\circ} 5'$ East and is delineated on the said plan and thereon also surrounded with a red line Together with full free and uninterrupted right for the Lessees their officers servants and workmen to search for dig get win and carry away all the Magadi Soda Deposit Together also with full and free liberty and right for the Lessees their servants and agents of access to the Guaso Nyiro and all reasonable facilities for obtaining and leading water therefrom or thereto for the purposes of their servants or agents and for the purposes of the Lessees' operations and for any other purposes of the demised premises.

And together further with liberty at all times during the said term to do all such things as the Lessees may deem necessary and convenient

"Soda Products"

(a) "Soda Products" means soda crystals, caustic soda, bicarbonate of soda ^{and} any other commodities or preparations which are recognised as soda products in the chemical industry and whether loose or packed.

"Manufactured Soda"

(ii) "Manufactured Soda" means manufactured articles or merchandise of which soda or soda products form the essential or main constituents and whether loose or packed.

"Governor's Day"

(i) "Governor's Day" means such day after the date of the incorporation of the Lessees as the Governor shall fix for the commencement of the period of five years mentioned in Clause 4 and elsewhere in these presents.

"Month"

(j) "Month" means calendar month.

"Term"

2. The Crown Agents for and on behalf of the Government in consideration of the rent and royalties hereinafter reserved and the covenants and conditions on the part of the Lessees to be observed and performed hereinafter contained hereby grant and demise unto the Lessees First all that rectangular piece of land forming part of the Colony and known as Lake Magadi together with all or any the deposits of carbonate of soda therein which piece of land is situate as near as can be ascertained between latitude $1^{\circ} 40'$ and $2^{\circ} 5'$ South and extends from longitude $36^{\circ} 10'$ East to longitude $36^{\circ} 20'$ East and is delineated on the map attached to these presents and thereon surrounded by a red line Together with the land on the shores of such lake necessary for working the said deposit as shown on the said Plan which premises together include an area of approximately 306 square miles And secondly all that triangular piece of land forming part of the Colony and situate near the Northerly end of the Natron Lake which piece of land includes an area of approximately 18 square miles and lies as near as can be ascertained to the Southward of latitude $2^{\circ} 5'$ South and between longitude 36° and $36^{\circ} 5'$ East and is delineated on the said plan and thereon also surrounded with a red line Together with full free and uninterrupted right for the Lessees their officers servants and workmen to search for dig get win and carry away all the Magadi Soda Deposit Together also with full and free liberty and right for the Lessees their servants and agents of access to the Ghuaso Nyim and all reasonable facilities for obtaining and leading water therefrom or thereon for the purposes of their servants or Agents and for the purposes of the Lessees' operations and for any other purposes of the demised premises.

And together further with liberty at all times during the said term to do all such things as the Lessees may deem necessary and convenient

for the working of the Magadi Soda Deposit and to construct any works ships buildings and appliances whatsoever water-races roads tramways railways canals and other means of transport in upon over and under the demised lands as they may deem necessary or convenient for effectually exploring winning working treating raising stocking dressing converting manufacturing transporting or otherwise disposing of the Magadi Soda Deposit.

Excepting nevertheless out of the demise hereby made and reserving unto the Crown Agents for and on behalf of the Government as follows:—

- (i) All mines minerals and mineral substances including precious stones and all coins treasure relics antiquities and other similar things lying in on or under the demised lands other than the Magadi Soda Deposit and also other than minerals and mineral substances removed in properly working the Magadi Soda Deposit (all which premises other than as aforesaid are hereinafter included in the term "the excepted minerals") with full and free right and liberty for the Crown Agents and the Government and their lessees and persons authorised by them to search for sink to work get raise carry away and dispose of the excepted minerals and for such purposes to sink drive erect make and use all such pits shafts drifts roads tunnels airways water-courses railways tramways and other roads through across or under the demised lands and the workings of the Lessees as shall be necessary or convenient And in the course of working to let down the surface of the demised lands and the Magadi Soda Deposit and the workings of the Lessees.
- (ii) So much of the Magadi Soda Deposit as the Crown Agents or the Government or their Lessees or any person authorised by them shall require to be left for the support of any building now or hereafter to be erected on the demised lands.
- (iii) So much of the Magadi Soda Deposit as the Crown Agents or the Government or their Lessees or any person authorised by them shall remove or deem advisable to leave in boring for sinking to or working the excepted minerals.
- (iv) So much of the Magadi Soda Deposit as the Crown Agents or the Government or their Lessees or any person authorised by them shall require to be left as a support for any pit or shaft which may hereafter be sunk to the excepted minerals.
- (v) So much of the Magadi Soda Deposit as the natives may remove for their own purposes in the exercise of any native right.

(vi) Such part or parts (not being land which is already occupied by any of the Lessees' works or operations or in respect of which the Lessees established to the satisfaction of the Governor that the Lessees will need the same for the subsequent development or expansion of their works or operations) of the demised lands as the Government shall from time to time think proper to reserve or allocate for native encampments or any similar purpose.

(vii) Full and free right and liberty for the Government to construct maintain renew repair and use any telegraph or telephone line or lines for the use of the Government in along or over the demised lands or any part or parts thereof and full and free right and liberty for the Government and persons authorised by them to enter upon and occupy so much of the demised lands as may be necessary for the said purposes or any of them without making any compensation therefor but making good all damage done

Provided always that the Crown Agents and the Government and their Lessees and persons authorised by them shall exercise the rights and liberties hereby reserved in such a manner as not to interrupt interfere with or affect to an unreasonable extent the working of the Magadi Soda Deposit or the exercise or enjoyment of the liberties hereby granted.

To hold unto the Lessees for the term of 99 years from the day of 192 yielding and paying the rent and royalties hereinafter reserved and subject to the provisions hereinafter contained.

3. The Lessees shall during the said term pay the yearly rent of twenty shillings yearly in advance without any deduction on the day of in every year the first of such payments for the first year of the said term having been made on the execution of these presents as the Crown Agents and the Government hereby acknowledge.

4. (i) Until the expiration of the period of five years from and after Governor's Day no Royalty shall be payable hereunder.

(ii) After the expiration of the said period of five years the Lessees shall on the 1st day of the months of June and of December respectively in each year pay to the Government or as they shall direct in respect of every ton of raw soda soda or soda products and for every ton of soda estimated to be contained in manufactured soda the produce of the demised premises which shall be exported from or sold and

delivered or used for commercial purposes within the Colony during the six months ending on the 31st day of December or the 30th day of June as the case may be preceding the day appointed for payment the royalties following that is to say—

(A) In respect of every ton of raw soda the sum of two shillings per ton.

(B) In respect of every ton of soda soda products or soda contained in manufactured soda the sum of three shillings per ton.

(iii) If the said period of five years shall not expire on a 31st day of December or a 30th day of June then the first payment shall be in respect of the period from the expiration of the said period of five years to the next 31st day of December or 30th day of June whichever shall first happen after the expiration of the said period of five years.

(iv) Raw soda soda products and soda contained in manufactured soda on which royalty has been paid by the Lessees shall not be liable to further royalty or duty when exported from the Colony in their original or any manufactured state.

5 The Lessees for themselves their successors and assigns hereby covenant with the Crown Agents and also as a separate covenant with the Government as follows :-

(i) The Lessees will pay the rent and royalties hereinbefore reserved and made payable at the times and in the manner aforesaid. To pay rent and royalties

(ii) For the purpose of ascertaining the amount of royalties payable hereunder the Lessees will keep proper books of account and the Lessees will keep such books from the commencement of the term hereby granted as if royalties were hereby made payable during the whole of the said term and permit the Government and any agent appointed for that purpose at all reasonable times to inspect the said books of account and to take copies thereof and extracts therefrom. To keep proper books and permit inspection

(iii) On the 30th day of June and the 31st day of December in each year of the term hereby granted or within 28 days thereafter the Lessees will render to the Government an account showing the amount of raw soda soda products and manufactured soda respectively exported from sold and delivered or used for commercial purposes within the Colony and every such account shall be certified by the auditor or auditors for the time being of the Lessees and an account so certified shall as to the figures appearing in such account be binding on the Lessees. To render accounts

delivered or used for commercial purposes within the Colony during the six months ending on the 31st day of December or the 30th day of June as the case may be preceding the day appointed for payment the royalties following that is to say—

(a) In respect of every ton of raw soda the sum of two shillings per ton.

(b) In respect of every ton of soda soda products or soda contained in manufactured soda the sum of three shillings per ton.

(iii) If the said period of five years shall not expire on a 31st day of December or a 30th day of June then the first payment shall be in respect of the period from the expiration of the said period of five years to the next 31st day of December or 30th day of June whichever shall first happen after the expiration of the said period of five years

(iv) Raw soda soda products and soda contained in manufactured soda on which royalty has been paid by the Lessees shall not be liable to further royalty or duty when exported from the Colony in their original or any manufactured state.

5. The Lessees for themselves their successors and assigns hereby Lessee's Covenant covenant with the Crown Agents and also as a separate covenant with the Government as follows:—

(i) The Lessees will pay the rent, and royalties hereinbefore reserved and made payable at the times and in the manner aforesaid. To pay rent and royalties

(ii) For the purpose of ascertaining the amount of royalties payable hereunder the Lessees will keep proper books of account and the Lessees will keep such books from the commencement of the term hereby granted as if royalties were hereby made payable during the whole of the said term and permit the Government and any agent appointed for that purpose at all reasonable times to inspect the said books of account and to take copies thereof and extracts therefrom. To keep proper books and permit inspection

(iii) On the 30th day of June and the 31st day of December in each year of the term hereby granted or within 28 days thereafter the Lessees will render to the Government an account showing the amount of raw soda soda products and manufactured soda respectively exported from sold and delivered or used for commercial purposes within the Colony and every such account shall be certified by the auditor or auditors for the time being of the Lessees and an account so certified shall as to the figures appearing in such account be binding on the Lessees. To render accounts

To work

(iv) The Lessees will forthwith commence and thereafter vigorously continue to work the Magadi Soda Deposit in a skilful and workmanlike manner to the full extent and to the best economic capacity and to get win and carry away the Magadi Soda Deposit in accordance with the provisions of these presents fairly and properly and according to the best and most approved method of working deposits of carbonate of soda until the whole of the Magadi Soda Deposit (except such parts thereof as shall be required by the Crown Agents or the Government or their lessees or any person authorised by them ~~to be left unworked for the purposes of support or which for any other reason it shall not be incumbent on the Lessees to get and which they shall under these presents permanently leave ungot~~) shall be worked out.

Heavily managed workings

(v) (A) Without prejudice to or in any way limiting the covenant by the Lessees lastly hereinbefore contained the Lessees will in each of the third fourth and fifth years from and after Governor's Day get and despatch by Railway not less than 50,000 tons of raw soda and soda products and in the sixth and every subsequent year from and after Governor's Day during the term hereby granted the Lessees will export or sell and deliver or use for commercial purposes within the Colony raw soda, soda or soda products or soda contained in manufactured soda as follows: In each of the sixth and seventh years from and after Governor's Day not less than 75,000 tons and in the eighth and every subsequent year not less than 100,000 tons.

Average

(B) If and whenever the Lessees shall in any year have made default to an extent not exceeding 10 percent. of the tonnage stipulated for that year then the Lessees may in the first three months of the next succeeding year make good such deficiency but no excess of tonnage of any preceding year shall be allowed towards making up a deficiency in any subsequent year.

To pay for soda lost or wasted

(vi) The Lessees will in case of any waste or unnecessary loss of raw soda by or through any mismanagement or default of the Lessees pay for the raw soda so wasted or lost as if the same had been actually got and exported.

To leave soda unworked for support

(vii) The Lessees will leave such quantities of the Magadi Soda Deposit unworked and in such positions for the support of any building now or hereafter to be erected on the demised lands or of any pit or shaft hereafter to be sunk to the excepted minerals as the Crown Agents or the Government or their

Lessees or any person authorised by them may reasonably and properly require.

(viii) The Lessees will not cause or permit any unnecessary or reasonably avoidable obstruction or interruption to the development by the Crown Agents or the Government or their Lessees or any person authorised by them of the excepted minerals or to the transport conveyance or conversion of the produce thereof or to the exercise or enjoyment of any right or liberty excepted out of the demise hereby made or hereby reserved.

Not to obstruct working of excepted minerals

(ix) The Lessees will keep all roads tunnels watercourses tramways railways engines fixed machinery and other works and conveniences belonging to or used in connection with the Magadi Soda Deposit in good and substantial repair and condition and working order so far as reasonably practicable and necessary for the proper working of the Magadi Soda Deposit except only such of the same as shall have been abandoned by reason that they have become unnecessary for the further or proper working of the Magadi Soda Deposit.

To keep works in repair

(x) The Lessees will permit the Crown Agents and the Government and any person or persons authorised by them or either of them in this behalf at all reasonable times to enter upon inspect and examine the demised lands and the Magadi Soda Deposit and every part thereof respectively to ascertain the condition thereof and manner of working and managing the same or for any other reasonable purpose. And will cause all such persons to have all such assistance as they may reasonably request from the employees of the Lessees.

To permit entry and view

(xi) The Lessees shall comply with all obligations which may be imposed on them by any general Ordinance for the time being in force in the Colony except only in so far as any such Ordinance shall impose or purport to impose upon the Lessees an export duty on raw soda soda products or manufactured soda.

To comply with Ordinances

(xii) In the construction of any works which may interfere with the traffic in any road street path or footway or with any rights of water or other rights or properties the Lessees shall not interfere with public and private conveniences and rights more than may be reasonably necessary and shall take all such precautions and provide and maintain all such temporary and permanent accommodation works as may be necessary or proper

Not to interfere with public or private rights

Lessees or any person authorised by them may reasonably and properly require.

- (viii) The Lessees will not cause or permit any unnecessary or reasonably avoidable obstruction or interruption to the development by the Crown Agents or the Government or their Lessees or any person authorised by them of the excepted minerals or to the transport conveyance or conversion of the produce thereof or to the exercise or enjoyment of any right or liberty excepted out of the demise hereby made or hereby reserved. Not to obstruct working of excepted minerals
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for the prevention of damage or injury to any property or person or for the due preservation or maintenance of any public or private right or property.

To indemnify Government against claims

(xiii) The Lessees shall be solely responsible for and shall indemnify and keep indemnified the Government against all accidents damages claims and losses which may occur or be incurred or claimed in or by reason of the construction of any works or the use of any plant engines or other appliances in connection therewith and if the Government shall make any payment in respect of such damages claims or losses then and in every such case the Lessees shall repay to the Government on demand the amount of the money so paid and of the costs incurred therein by the Government provided that this clause shall not extend to any accident damage claim or loss which may occur or be incurred or claimed in or by reason of the working of any railway by the administration or authority for the time being and from time to time working or managing the Uganda Railway unless the same shall have arisen from some neglect or default of the Lessees.

Office to be provided for service of notices

(xiv) The Lessees shall at all times during the term hereby granted provide and maintain a convenient office at some place on the demised premises at or to which any notices to be given to the Lessees under these presents may be left or addressed.

No arms or ammunition to be sold to natives

(xv) The Lessees shall not at any time during the continuance of this Lease sell give barter or otherwise dispose of any arms or ammunition of any description to any native or permit or suffer any of their employees to make any such sale gift barter or other disposition.

No spirituous liquor to be sold to natives nor imported except for Europeans

(xvi) The Lessees shall not in any way infringe or interfere with the rights of natives and particularly any native rights of hunting or fishing taking water timber or firewood or collecting or removing soda from the demised premises for their own purposes.

(xvii) The Lessees shall not at any time during the continuance of this Lease sell give or barter any spirituous liquor to any native or permit or suffer any such sale gift or barter to be made by any employee or agent of the Lessees or import or authorize the importation of any spirituous liquor into the Colony or any part thereof except for the use of the European agents or employees of the Lessees and in accordance with and subject to such rules as may from time to time be made by the Governor in that behalf.

(xviii) If the Government shall incur any expenditure in erecting or maintaining any sanitary works or regulations upon or in the neighbourhood of the Lessees' works the Lessees shall so far as such expenditure is rendered necessary or increased by the operations of the Lessees or by the presence of the agents or workmen of the Lessees pay to the Government on demand as a contribution towards the said expenditure such proportion as shall be just and equitable in the circumstances such proportion in case of difference to be settled by the Governor.

As to liability for special sanitary measures

(xix) The Lessees shall provide at or near the site of their works such huts or other accommodation for the use of the native labourers or workmen employed in the Lessees' works and also such hospitals medical officers and attendants medicines and medical stores for the like use as may be necessary.

Huts or other accommodation hospitals and medicines for use of natives to be provided

(xx) The Lessees shall at all times during the term hereby granted comply with all such requirements and make all such arrangements as may be made or directed by the Government to secure the proper treatment of native labourers or workmen.

Native labour

(xxi) The Lessees will at all times during the term hereby granted observe the following provisions :-

As to user of roads and facilities for travellers

(A) They will allow all roads made by the Lessees upon the demised premises to be used for the public service except roads inside or around their works.

(B) They will permit travellers to encamp with their servants animals waggons and baggage for a period not exceeding 48 hours on any part of the demised premises which is uncultivated and which is not within one mile of any works or dwelling house and allow travellers and their servants and animals access to any river stream or lake upon the demised premises outside of the Lessees' works.

(xxii) The Lessees will at the expiration or sooner determination of the term hereby granted deliver up to the Government the demised premises with all buildings and fixtures thereon except so far as the Magadi Soda Deposit shall have been worked out under these presents and except also such fixtures and things as the Lessees are by law entitled to remove in such state and condition in all respects as shall be consistent with the due performance and observance of the provisions herein contained and in proper order for the future working of the Magadi Soda Deposit.

To deliver up

(xviii) If the Government shall incur any expenditure in erecting or maintaining any sanitary works or regulations upon or in the neighbourhood of the Lessees' works the Lessees shall so far as such expenditure is rendered necessary or increased by the operations of the Lessees or by the presence of the agents or workmen of the Lessees pay to the Government on demand as a contribution towards the said expenditure such proportion as shall be just and equitable in the circumstances such proportion in case of difference to be settled by the Governor.

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To deliver up

Not to assign
without license

(xxiii) (A) The Lessees shall not assign underlet or part with the possession of the demised premises or any part thereof or suffer any corporation (other than the Lessees) or any person to occupy the demised premises or any part thereof as a licensee without the previous consent in writing of the Crown Agents but such consent shall not be unreasonably withheld.

(B) Provided always that the Crown Agents may withhold such consent unless the Lessees shall before the assignment or underlease or any agreement for the same shall be executed deliver to the Crown Agents an indenture to be prepared by the solicitors for the time being of the Crown Agents at the cost of the Lessees containing a covenant by the intended assignee or underlessee with the Crown Agents and also separately with the Government to perform and observe during the term assigned or granted to him the covenants by the Lessees and conditions in these presents contained in the same manner as if such such covenants and conditions were therein repeated with the substitution of the name of the intended assignee or underlessee for the name of the Lessees and with such other alterations as the circumstances shall render necessary and also containing a provision determining the term thereby assigned or granted on breach of any of the said covenants by the intended assignee or underlessee.

(C) Provided also that upon any assignment of the demised premises or any part thereof being made in accordance with these presents if such indenture as hereinbefore in this clause mentioned shall have been duly executed by the assignee and delivered to the Crown Agents then the Lessees making the assignment shall thereupon cease to be personally liable under any of the covenants or obligations of these presents so far as the same relate to the premises comprised in such assignment but without prejudice to any right of action or remedy of the Crown Agents or the Government in respect of any antecedent breach by the Lessees of any of such covenants or obligations.

The Governor
may appoint the
Director of the
Lessees

(xxiv) (A) The Governor may from time to time appoint any person to be a Director of the Lessees and may at any time remove such person from being a Director and appoint another person in his place.

(B) The person so appointed shall be entitled to hold office as a Director until he resigns or dies or is removed from office by the Governor whichever event first happens.

(c) Not more than one person shall at any one time be entitled to hold office as a Director by virtue of appointment hereunder.

(d) Any such appointment shall be in writing under the hand of the Governor and served on the Lessees.

(e) A Director appointed hereunder shall not require any qualification.

(f) The Articles of Association of the Lessees shall provide accordingly and if necessary shall be altered in this behalf.

(xxv) (A) If and whenever any excepted mineral (that is to say any mine mineral or mineral substance precious stone coin treasure relic antiquity or other similar thing excepted out of the demise hereby made) shall be found in or upon the demised lands the Lessees shall forthwith give notice thereof to the Government.

To give notice of
finding any excepted
mineral

(B) If any excepted mineral so found can be got without injury thereto in the ordinary course of working the Magadi Soda Deposit the Lessees shall get the same without injury thereto accordingly and hold the same for the Government and both in and after getting the same the Lessees shall take all reasonable steps for the safe preservation of the same.

(C) If any excepted mineral so found cannot be got without injury thereto in the ordinary course of working the Magadi Soda Deposit the Lessees shall forthwith upon any such discovery cease working so far as necessary for the preservation of the thing found and shall leave their workings at and adjacent to the thing found open for a period of one month for the inspection thereof by the Government and thereafter shall not continue working at or adjacent to the thing found except in accordance with any reasonable instructions given by the Government for the purpose of avoiding injury to the thing found.

6. Provided always and these presents are upon the express conditions following —

(i) The Lessees and any Company or Corporation becoming by assignment or otherwise entitled to the term hereby granted or any part thereof or so possession of the demised premises or any part thereof shall be and remain British in constitution and character registered in Great Britain or in a British Colony and having their principal place of business within His Majesty's dominions and the Chairman and at least four-fifths in number of the Directors of the Lessees or any such Company or

Lessees to be
and remain British

(xxiii) (A) The Lessees shall not assign underlet or part with the possession of the demised premises or any part thereof or suffer any corporation (other than the Lessees) or any person to occupy the demised premises or any part thereof as a licensee without the previous consent in writing of the Crown Agents but such consent shall not be unreasonably withheld.

(B) Provided always that the Crown Agents may withhold such consent unless the Lessees shall before the assignment or underlease or any agreement for the same shall be executed deliver to the Crown Agents an indenture to be prepared by the solicitors for the time being of the Crown Agents at the cost of the Lessees containing a covenant by the intended assignee or underlessee with the Crown Agents and also separately with the Government to perform and observe during the term assigned or granted to him the covenants by the Lessees and conditions in these presents contained in the same manner as if such such covenants and conditions were therein repeated with the substitution of the name of the intended assignee or underlessee for the name of the Lessees and with such other alterations as the circumstances shall render necessary and also containing a provision determining the term thereby assigned or granted on breach of any of the said covenants by the intended assignee or underlessee.

(C) Provided also that upon any assignment of the demised premises or any part thereof being made in accordance with these presents if such indenture as hereinbefore in this clause mentioned shall have been duly executed by the assignee and delivered to the Crown Agents then the Lessees making the assignment shall thereupon cease to be personally liable under any of the covenants or obligations of these presents so far as the same relate to the premises comprised in such assignment but without prejudice to any right of action or remedy of the Crown Agents or the Government in respect of any antecedent breach by the Lessees of any of such covenants or obligations.

The Governor may from time to time appoint any person to be a Director of the Lessees and may at any time remove such person from being a Director and appoint another person in his place.

(a) The person so appointed shall be entitled to hold office as a Director until he resigns or dies or is removed from office by the Governor whichever event first happens.

(c) Not more than one person shall at any one time be entitled to hold office as a Director by virtue of appointment hereunder.

(d) Any such appointment shall be in writing under the hand of the Governor and served on the Lessees.

(e) A Director appointed hereunder shall not require any qualification.

(f) The Articles of Association of the Lessees shall provide accordingly and if necessary shall be altered in this behalf.

(xxv) (A) If and whenever any excepted mineral (that is to say any mine mineral or mineral substance precious stone coin treasure relic antiquity or other similar thing excepted out of the demise hereby made) shall be found in or upon the demised lands the Lessees shall forthwith give notice thereof to the Government. To give notice of finding any excepted mineral

(B) If any excepted mineral so found can be got without injury thereto in the ordinary course of working the Magadi Soda Deposit the Lessees shall get the same without injury thereto accordingly and hold the same for the Government and both in and after getting the same the Lessees shall take all reasonable steps for the safe preservation of the same.

(C) If any excepted mineral so found cannot be got without injury thereto in the ordinary course of working the Magadi Soda Deposit the Lessees shall forthwith upon any such discovery cease working so far as necessary for the preservation of the thing found and shall leave their workings at and adjacent to the thing found open for a period of one month for the inspection thereof by the Government and thereafter shall not continue working at or adjacent to the thing found except in accordance with any reasonable instructions given by the Government for the purpose of avoiding injury to the thing found.

6. Provided always and these presents are upon the express conditions following:-

(i) The Lessees and any Company or Corporation becoming by assignment or otherwise entitled to the term hereby granted or any part thereof or to possession of the demised premises or any part thereof shall be and remain British in constitution and character registered in Great Britain or in a British Colony and having their principal place of business within His Majesty's dominions and the Chairman and at least four-fifths in number of the Directors of the Lessees or any such Company or Lessees to be and remain British

Corporation as aforesaid shall at all times be and remain British subjects.

- (ii) In the event of any alteration being proposed in the Memorandum or Articles of Association or constitution of the Lessees or any such Company or Corporation as aforesaid notice thereof shall be given in writing to the Crown Agents who if in their opinion the said alteration shall be contrary to the cardinal principle that the Lessees and any such Company or Corporation as aforesaid shall be and remain a British Company under British control may refuse their consent to such alteration.
- (iii) If and whenever any such alteration shall be made without the written consent of the Crown Agents or if the Lessees or any such Company or Corporation as aforesaid shall at any time cease to be a British Company or if the Chairman and at least four-fifths in number of the Directors thereof shall not be British subjects the Crown Agents may thereupon forthwith by notice served on the Lessees or such Company or Corporation as aforesaid as the case may be determine the demise hereby made without making any compensation but without prejudice to any right of action or remedy of the Crown Agents or the Government in respect of any antecedent breach of any of the covenants by the Lessees or conditions herein contained.
- 7 The Crown Agents hereby covenant with the Lessees as follows —
- (i) The Lessees paying the rent and royalties hereby reserved and observing and performing the covenants and conditions herein contained and on the Lessees' part to be observed and performed shall and may peaceably and quietly possess and enjoy the demised premises during the said term without any lawful interruption from or by the Crown Agents or any persons rightfully claiming from or under them.
- (ii) No land within a quarter of a mile on either side of the railway from Magadi Junction to Lake Magadi shall be sold leased or otherwise disposed of by the Government to any person persons or corporation other than the Lessees without first giving to the Lessees the option of acquiring from the Government the whole of the land so proposed to be sold leased or otherwise disposed of on the same or similar terms and conditions as those on which the Government may be willing to sell lease or otherwise dispose of the same to any other person persons or corporation and such option shall be exercisable by the Lessees within one month from and after service upon the Lessees of notice in that behalf.

Lessee's covenants

The quiet enjoyment

Lessee's have first refusal of all land near railway

8. Provided always that if and whenever the said rent and royalties hereby reserved or made payable or any part thereof respectively shall be in arrear for the space of forty days next after any of the days whereon the same ought to be paid as aforesaid (whether the same shall or shall not have been legally demanded) the Crown Agents or the Government may enter into and upon any of the demised premises or any adjoining or neighbouring lands or works for the time being held occupied or used by the Lessees together or in connection with the demised premises and may seize and distrain and sell as landlords may do under the laws of England for rent in arrear all or any of the Raw Soda then got and the Soda products and Manufactured Soda there found and the engines machinery plant animals implements and chattels belonging to the Lessees within under or upon the premises so entered upon and out of the moneys arising from the sale of any such distress may retain and pay all arrears of the said rent and royalties and also the costs and expenses incident to any such distress and sale rendering the surplus (if any) to the Lessees.

Power of distress

9. Provided always that if and whenever the said rent and royalties hereby reserved or made payable or any part thereof respectively shall be in arrear for the space of Sixty days next after any of the days whereon the same ought to be paid as aforesaid (whether the same shall or shall not have been legally demanded) or if there shall be any breach or non-observance of any of the covenants on the part of the Lessees (whether negative or affirmative) herein contained or if the Lessees while the demised premises or any part thereof remain vested in them shall go into liquidation whether voluntary or compulsory (except with the consent in writing of the Government a voluntary liquidation for the purpose of reconstruction only) or suffer a receiver of their undertaking or any part thereof to be appointed by any Court of competent jurisdiction or commit any act which would render the Lessees liable to be wound up on petition or in the case of assigns of the Lessees not being a corporation shall or any of them shall become bankrupt or make any assignment for the benefit of or enter into any arrangement for composition with their or his creditors then and in any of the said cases it shall be lawful for the Crown Agents or the Government although they may not have taken advantage of some previous default of the like nature at any time thereafter into and upon the demised premises or any part thereof in the name of the whole to re-enter and the same to have again re-possess and enjoy as in their former estate. And thereupon this Lease and the liberties hereinbefore granted shall cease and determine but without prejudice to any right of action or remedy which may have accrued to the Crown Agents or the Government in respect of any antecedent breach by the Lessees of any of the covenants or provisions herein

Proviso for re-entry

8. Provided always that if and whenever the said rent and royalties hereby reserved or made payable or any part thereof respectively shall be in arrear for the space of forty days next after any of the days whereon the same ought to be paid as aforesaid (whether the same shall or shall not have been legally demanded) the Crown Agents or the Government may enter into and upon any of the demised premises or any adjoining or neighbouring lands or works for the time being held occupied or used by the Lessees together or in connection with the demised premises and may seize and distrain and sell as landlords may do under the laws of England for rent in arrear all or any of the Raw Soda then got and the Soda, Soda products and Manufactured Soda there found and the engines machinery plant animals implements and chattels belonging to the Lessees within under or upon the premises so entered upon and out of the moneys arising from the sale of any such distress may retain and pay all arrears of the said rent and royalties and also the costs and expenses incident to any such distress and sale rendering the surplus (if any) to the Lessees.

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Proviso for re-entry

Agree to do within any specified time shall be delayed by any such cause such specified time shall be proportionately extended.

15. In case and so often as any dispute difference or question shall arise between the said parties hereto or any Government Corporation Company or person claiming through or under them respectively or between any of such parties Governments Corporations Companies or persons concerning or relating to the demised premises or the Lessees' works or any part thereof respectively or the construction meaning or effect of these presents or of any award made in pursuance hereof or any clause or thing contained in this Lease or is any such award as aforesaid or the rights or liabilities of any party hereto or of any such Government Corporation Company or person as aforesaid under these presents or any such award as aforesaid then (except in any case and as to any matter for which other provision is hereinbefore made) the subject of every such dispute difference or question shall in every case on the demand in writing of either party be referred to the arbitration and award of an umpire if the parties can agree to an umpire and in case they cannot so agree then of two arbitrators one to be appointed by each party to the reference and an umpire to be appointed by the two arbitrators or if such two arbitrators fail for one month after their appointment to appoint an umpire by His Majesty's Secretary of State for the Colonies for the time being. The decision of such umpire or arbitrators as the case may be shall be final and without appeal and binding upon all parties. If either party to any such dispute difference or question make default in appointing an arbitrator within three months after the other party has given him or them notice to appoint the same the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference and his award shall be final and binding on all parties and all the provisions herein contained with reference to the proceedings of two arbitrators and an umpire shall *mutatis mutandis* be applicable to such sole arbitrator.

Envision for Arbitration

16. The arbitrators and umpire shall have full power to make if they or he think fit several awards instead of one award and every such award though not on the whole matter shall be final so far as it extends and as if the matter awarded on were the whole matter referred.

Arbitrators may make partial awards

17. The arbitrators and umpire shall have full power to proceed in the absence of both or either of the parties after giving to both parties such notice as the arbitrators or umpire may think sufficient of their or his intention to proceed.

May proceed ex parte

May inspect books
and accounts and
examine on oath

18. The arbitrators and umpire shall have full power to inspect the books documents and accounts of both parties to the reference or either of them and to examine on oath or affirmation or on statutory declaration in lieu of oath the officers agents servants and witnesses of the parties respectively.

And provide for
costs

19. The costs of the reference and the awards shall be in the discretion of the arbitrators and umpire and such costs may be awarded as between solicitor and client.

Marginal notes
do not affect
construction

20. The marginal notes hereto are for the sake of convenience only and shall not affect the interpretation or construction of these presents.

In witness whereof one of the Crown Agents has hereunto set his hand and seal and the Lessees have caused their Common Seal to be hereunto affixed the day and year first above written.

signed sealed and delivered by

one of the Crown Agents for the Colonies in the presence of

The Common Seal of The
Magadi Soda Company Limited
was hereunto affixed in the
presence of

Directors.

Secretary.

May inspect books
and accounts and
examine on oath

18. The arbitrators and umpire shall have full power to inspect the books documents and accounts of both parties to the reference or either of them and to examine on oath or affirmation or on statutory declaration in lieu of oath the officers agents servants and witnesses of the parties respectively.

And provide for
costs

19. The costs of the reference and the awards shall be in the discretion of the arbitrators and umpire and such costs may be awarded as between solicitor and client.

Marginal notes
not to affect
construction

20. The marginal notes hereto are for the sake of convenience only and shall not affect the interpretation or construction of these presents.

In witness whereof one of the Crown Agents has hereunto set his hand and seal and the Lessees have caused their Common Seal to be hereunto affixed the day and year first above written.

Signed sealed and delivered by

one of the Crown Agents for the
Colonies in the presence of

The Common Seal of The
Magadi Soda Company Limited
was hereunto affixed in the
presence of

Directors.

Secretary.

10 January, 1924.

My dear Sir,

As the mail goes to-day, I think it well to send to you informally the enclosed copies of the most recent correspondence with the Magadi Soda Company, in order that you may have it at the earliest possible moment. We shall, no doubt, have telegraphic correspondence before you get this, but there may be some advantage in anticipating an official despatch.

At the moment the point which troubles me is the Port. Here we took the Governor's second telegram on this point as being due to the fact that the first telegram refers to maize, that is, it was considered that the danger apprehended was that of the Port being used for export purposes generally.

That is why in a letter to the Company we have said that the use of the Port should be confined to purposes connected with their concession.

But

S. B. DENHAM, RSQ., C.N.G..

the Company's reply makes me wonder whether
proposed restriction on their use of the
it does not go further than we had expected.

I am sorry that I have not answered
fers your letters, from which I have been glad
get your good first impressions of the Colony.
re we are up to the neck in financial matters
nected with Kenya and Uganda, and before you
this I hope that we shall have something
atisfactory to report. As you have not referred
finance in your letters to me, I gather that
are not so distressed over the position of
Colony's account as some of us here are
lined to be.

Congratulations on your marriage, of
I was very glad to hear.

Yours sincerely,

was

THE MAGADI SODA COMPANY, LIMITED.

M. SAMUEL & CO. MANAGERS.

LEOPARDS "SODAGADI, LONDON"
LEPHERE LONDON WALL 1883

ALL COMMUNICATIONS
TO BE ADDRESSED TO
THE COMPANY

GS/DOE.

BY HAND

Phill House
250-27 Bishopsgate
London EC2
9th January 1924.

1462
10 JAN 24

The Under Secretary of State,
Colonial Office,
DOWNING STREET, S.W...1.

Sir,

Your letter of the 3rd inst. with the memorandum enclosed has now been considered by those who are associated with me in the reconstruction of the Magadi Soda Co.Ltd. and by myself and I now write to inform you that the terms contained in that letter and memorandum are accepted in principle.

I should like, however, to draw your attention to the following points which are submitted for consideration, and adjustment can be given to them by the Solicitors when drafting the necessary supplemental documents to be entered into between the Crown Agents for the Colonies or other Department concerned and the new Company.

The points are as follows:-

- (a) The period of 3 months mentioned in Memorandum, Clause 4. appears to us too short. We believe that the accounts of the Uganda Railway are kept yearly so that no additional trouble will be involved to the Administration of that Railway, and we suggest that yearly accounts should therefore be taken.
- (b) Clause 5. As the Company has supplied its own Rolling Stock it is submitted that it is not unfair that the same freight should be charged on coal or other fuel upward from the Coast to the Lake as in respect of the Company's products from the Lake to the Coast.

THE MAGADI SODA COMPANY, LIMITED.

M. SAMUEL & CO. MANAGERS

LENNES, SODABADI, LONDON.
LENNES, LONDON WALL 1883

ALL COMMUNICATIONS
TO BE ADDRESSED TO
THE COMPANY

GS/DOB.

BY HAND

*Shell House
25-27 Bishopsgate*

London 9th January 1924.

316
1462

The Under Secretary of State,
Colonial Office,
DOWNING STREET, S.W....1.

Sir,

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- (b) Clause 5. As the Company has supplied its own Rolling Stock it is submitted that it is not unfair that the same freight should be charged on coal or other fuel upward from the Coast to the Lake as in respect of the Company's products from the Lake to the Coast.

(c) Clause 6 (a) and (b) appear to us inequitable. If the new Company is to be debited with any loss on working under (a) then it is felt that the profits which the Uganda Railway may retain under (b) should be applied in satisfaction wholly or partially of the loss debited under (a). In other words, it is not fair that the Department should debit the deficiency against the Company and at the same time retain the profits of working the line.

(d) Clause 2. We understand this clause to mean that the right of re-entry or forfeiture is only on the same conditions as are set forth in the existing Lease.

(e) With regard to Clause 3 of your letter and the last paragraph of your memorandum: This Company has a contract with the Asiatic Petroleum Co. Ltd., for the supply by the latter of Fuel Oil. The Oil is delivered in cargoes and as this Company does not as a rule require so much as a whole cargo at a time the balance not required by this Company is stored by it for account of the Asiatic Co. and delivered by it to the Customers of the Asiatic. I assume that there will be no objection to this arrangement being continued in future.

Further, Steamers loading Soda or lumbering at the Company's Pier at Kilindini find it convenient to take their fresh water from us. This also I assume will be held unobjectionable.

You will understand that notwithstanding the points enumerated above this letter is intended to be an acceptance of the terms offered by you, and we propose to proceed with the reconstruction scheme. We shall therefore issue Notices

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You will understand that notwithstanding the points enumerated above this letter is intended to be an acceptance of the terms offered by you, and we propose to proceed with the reconstruction Scheme. We shall therefore issue Notices

convening meetings to put the existing Company into voluntary liquidation and to give the shareholders preliminary details of the Scheme: but shall not send out notices before the 15th inst., so as to give you the opportunity of making any comments on this letter, or on the matter generally, should you wish to do so.

I am, Sir,

Your obedient Servant,

H. H. Lunnell

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I am, Sir,

Your obedient Servant,

Walter H. Lawrence

Downing Street,

17 January, 1924.

ST

DRAFT.

MESSRS. SUTTON OSMANNEY
AND OLIVER,

3-4, Great Winchester St.

E.C.2.

Gentlemen,

With reference to

previous correspondence with regard

to the proposed reconstruction of

the Magadi Soda Company, I am etc.

to transmit to you the accompanying

copy of a letter addressed to the

Company on the 3rd Jan. which, with

its enclosure, indicates the terms

on which the Govt. of Kenya and the

S. of S. for the Colonies are

prepared to offer to the reconstructed

Company. A copy of the ensuing

correspondence with the Company is also

enclosed for your information and

guidance.

2. It will not, of course, be possible

Mr. Bottomley 15. 1.24

Mr. *Anghe* 16

Sir C. Davis.

Sir G. Grindle.

Sir H. Road.

Sir J. Macgregor Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

Magadi Soda Co. 24.1.24 (6100) ✓
- do - 24.1.24 (1462) ✓
- do - 24.1.24 () ✓
- do - 24.1.24 () ✓
S.O. 24.1.24 ✓
(1462)
1384

Copy to W. 72. 17 Jan 24 No 1384

2 4 575

Downing Street,

ST

17 January, 1924.

DRAFT.

MESSRS. SUTTON OSMANNEY
AND OLIVER,
3-4, Great Winchester St.
E.C.2.

MINUTE.

- Mr. Bottomley 15.1.24
- Mr. [unclear] 16
- Mr. [unclear] 16
- Sir C. Davis
- Sir G. Grindle
- Sir H. Reed 16
- Sir J. Mackenzie Smith
- Mr. Drumley-Gordon
- Duke of Devonshire

For 1384
17 Jan 24

Magadi Soda Co. Ltd. (1384) ✓
 - do - 2.3.24 ✓ (1407)
 - do - 1.24 ✓ (C.)
 S.O. 9.1.24 ✓
 (1407)
 1384

Gentlemen,

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previous correspondence with regard to the proposed reconstruction of the Magadi Soda Company, I am etc. to transmit to you the accompanying copy of a letter addressed to the Company on the 3rd Jan. which with its enclosure indicates the terms on which the Govt. of Kenya and the S. of S. for the Colonies are prepared to offer to the reconstruction Company. A copy of the ensuing correspondence with the Company is enclosed for your information and guidance.

2. It will not, of course, be possible

21 4 575

Downing Street

17 January, 1924.

DRAFT.

THE HONOURABLE
WALTER SAMUEL, M.C.
DIRECTOR,
MAGADI SODA CO., LTD.

17 JAN 1924

MINUTE.

Mr. Bottomley 15 1.24

Mr.

Mr. Ruske 16

Sir C. Davis.

Sir G. Grindle.

Sir H. Reed.

Sir J. Masterton Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

Samuel
17 Jan 24
1782 to 1384
Gov 72

Sir,

I am etc. to acknow.
the receipt of your letter of
the 9th Jan., regarding the
arrangements for the reconstruc-
tion of the Magadi Soda Company.

2. His Grace observes
that you and those associated
with you in the reconstruction,
are willing to accept the terms
indicated in the letter from
this Dept. of the 3rd Jan. and
its enclosure, and that the
representations on points of
detail which are made in your
letter are not put forward as
conditions attached to your

2 drafts

Downing Street

17 January, 1924.

DRAFT.

THE HONOURABLE
ALTER SAMUEL, M.C.
DIRECTOR,
MAGADI SODA CO., LTD.

17 JAN 1924

MINUTE.

Mr. Bottomley 15 1.24

Mr.

Mr. *Ashe* 16

Sir C. Davis.

Sir G. Grindle.

Sir H. Road.

Sir J. Masterton Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

Copy to Mr. Samuel - 17 Jan 24 for 1384

Sir,

I am etc. to acknow.

the receipt of your letter of the 9th Jan., regarding the arrangements for the reconstruction of the Magadi Soda Company.

2. His Grace observes that you and those associated with you in the reconstruction are willing to accept the terms indicated in the letter from this Dept. of the 3rd Jan. and its enclosure, and that the representations on points of detail which are made in your letter are not put forward as conditions attached to your

2 drafts

acceptance. ~~It~~ will, however, communicate your representations to the Gov. in order that it may be considered how far they can be adopted in the arrangements to be made.

Bring in 2 x 2 for best shot

5 Since the date of your letter the terms of the circular sent to the shareholders in the existing Company has been communicated to the Colonial Office semi-officially. Pending the result of that circular (on which the S. of S. does not consider it necessary to offer any observations) a letter is being sent to the Solicitors of the Col. Government setting out the terms of the agreement in order that such arrangements as possible may be made towards the drafting of the necessary instruments.

56 I am to request that you will arrange for notices of all meetings connected with the reconstruction of the Company to be sent to the Solicitors,

Messrs.

acceptance. It will, however,
communicate your representations to the
Gov. in order that it may be considered
how far they can be adopted in the arrange-
ments to be made.

*Being in 3rd part
last sheet*

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towards the drafting of the necessary
instruments.

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arrange for notices of all meetings
connected with the reconstruction of the
Company to be sent to the Solicitors.

Messrs. Sutton, Ommanney and
Oliver, 3 and 4, Great Winchester
Street, E.C.2, in order that
they may have the opportunity of
attending on behalf of the Govt.
of Kenya.

I am, etc.

3. It has already been
explained orally to Colonel Symonds
that the arrangement to which
exception is taken at (a) in your
letter is due to the fact that the
General Manager has decided on grounds
of economy to merge the accounts
of the branch railway with those of
the whole system and that the in-
vestigation ~~necessary for determining~~ *required to determine*
the working expenses of the traffic
for the purposes of a revision of
freight rates, will necessitate the

F.O.