



1911

EAST. AFR. PROT.  
15286

15235  
Recd  
Date: 11, MAY 11

Agents

L. Magadi Scheme

Date

1911

Page

Station Paper

10013

Send copies of Agreement with Magadi Soda Co Ltd - also copy letter from Solicitors with encls. re: to certain alterations in the Articles of Association of the Co., 1 to one of these Directors, M. L. Rayerbach.

Mr. Fielder

Copy of L<sup>r</sup> same, with 25 copies of the Contract sent, to the Secy for info. L.T.?

H. J. R.

11/11

Attn: P. N.

S. B.



11.9 Capital  
9694  
15

See No 9  
24332

15481

286  
Sec  
A.P. 31

ALL COMMUNICATIONS  
TO BE ADDRESSED TO THE  
CROWN AGENTS FOR THE COLONIES.  
THE ABOVE REFERENCE AND THE  
DATE OF THIS LETTER BEING QUOTED.  
TELEGRAMS "CROWN, LONDON."  
TELEPHONE 1855 VICTORIA

C O  
15235  
REC  
RECEIVED

267



WHITEHALL GARDENS,  
LONDON, S. W.

10th April 1911

Sir,

With reference to your letter of the 29th of  
March No. 9075/1911, I have the honour to report that the  
Contract and Lease granted to the Saudi Soda Co. Ltd  
have been executed and that we are sending 30 copies of the  
documents to you under separate cover for the use of the  
Colonial Office and the Protectorate Government.

11 Apr 11  
encl.

2. I take this opportunity of forwarding a copy of  
a letter from our Solicitors dated the 8th of April,  
together with its enclosures, relating to certain alter-  
ations in the Articles of Association of the Company,  
and to one of their Directors, Mr Lewis Reyersbach. A  
memorandum and letter in the form transmitted with Messrs  
Sutton Ommaney and Rendall's letter were, after communica-  
tion with your Department, duly signed by us and returned to  
them.

3. The original lease to the East Africa Syndicate  
Ltd and the Deed of Surrender will be forwarded for trans-  
mission to the Protectorate for the purpose of registra-  
tion as soon as the documents are received from our  
Solicitors.

I have, Sir, the honour to be,

Sir,

Your Obedient Servant

Chief Secretary of State  
Colonial Office.

*R. E. Eyre*  
for Crown Agents.

COPY-

Encl. in 12

15233

268

Messrs. Sutton Gormanney & Rendall <sup>INCORPORATED</sup> SOLE AGENTS.

3 & 4, Great Winchester St.,  
London, E.C.  
8th. April, 1911.

EAST AFRICA PROTECTORATE

Magadi Soda Concession.

Gentlemen,

We hope to be in a position to complete this matter on Monday or Tuesday the 10th. or 11th. instant. We therefore propose to call upon you shortly for the purpose of obtaining your signatures to the Lease and Contract.

With reference to Clause 27 of the proposed Lease requiring the Chairman of the Company and at least four-fifths of the Directors to be British subjects, we understand that at the time the Board of the Magadi Soda Company Limited was constituted, the Colonial Office agreed that Mr. Lewis Reyersbach, a naturalised British subject of Cape Colony should be deemed a British subject.

The Company's Solicitors have requested us to obtain a letter from you addressed to the Company to be handed over to them at the time the Lease is granted, placing the above mentioned fact on record. We shall be obliged, therefore, if you will sign and return to us the enclosed form or letter.

In

In reference to the stipulation contained in the same Clause 27 of the proposed Lease, requiring your consent to any alteration in the Company's Memorandum or Articles of Association, the Company's Solicitors inform us that the Committee of the London Stock Exchange require certain slight variations in the Articles. These proposed alterations which are of a formal and technical nature, and do not affect the purpose of the said Clause 27, are set forth in the enclosed Memorandum, which we shall also be obliged if you will sign and return to us.

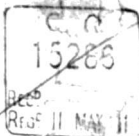
A copy of the Company's Memorandum and Articles of Association is enclosed for reference.

We have, etc.,

(Sgd.) SUTTON GEMANNEY & RENDALL.



## MEMORANDUM



The Committee of the London Stock Exchange have required the following alterations to be made in the Articles of Association of the Magadi Soda Company Limited, viz:

(1) That Article 16 shall be altered by the insertion in the first line thereof after the word "Certificate" the words "under seal and signed by at least one Director and the Secretary", so that this line will read: "every member shall be entitled to one Certificate under seal and signed by at least one Director and the Secretary";

(2) Article 139 be amended by the insertion at the end thereof of the following words: "and two copies of each of these documents shall at the same time be forwarded by the Secretary of the Share Loan Department of the Stock Exchange London".

It will also probably be desirable to insert that a Director vacates office in the event of his failing to hold his qualification.

-----

We hereby consent to the above mentioned alterations in the Articles of Association of the Magadi Soda Company Limited.

(Sgd.) R. L. Antrobus

One of the Crown Agents for the Colonies.

10th. April 1911.

The Magadi Soda Company Ltd.,  
25/27 Bishopsgate,  
London, E.C.

15236 271

Whitehall Gardens,

London, S.W.

10th. April, 1911.

Gentlemen,

With reference to the pending execution by us on behalf of the Government of the East Africa Protectorate of a lease to you of Lake Magadi and other lands in the Protectorate and with regard to the provisions of Clause 27 of the said Lease requiring the Chairman and at least four-fifths of the Directors of your Company to be British subjects, we hereby agree that Mr. Lewis Meyersbach, a member of your Board and a naturalised British subject of the Cape of Good Hope, shall be deemed to be a British subject within the meaning and requirements of the said Clause 27.

I am, etc.,

(Sgd.) R. L. Antrobus.

The Magadi Soda Company Limited,

25/7 Bishopsgate,

London, E.C.

# EAST AFRICA PROTECTORATE.

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## Contract

FOR THE

CONSTRUCTION, MAINTENANCE AND WORKING OF A  
RAILWAY TO LAKE MAGADI IN THE EAST AFRICA  
PROTECTORATE, AS A BRANCH OF THE UGANDA  
RAILWAY.

*Dated 13th April, 1911.*

SUTTON, OMMANNEY & RENDALL,

2 & 4, GREAT WINCHESTER STREET,

LONDON, E.C.

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## EAST AFRICA PROTECTORATE.

**This Indenture** made the 13th day of April 1911

Between SIR REGINALD LAURENCE ANTROBUS K.C.M.G. C.B. MAURICE ALEXANDER CAMERON C.M.G. late a Major in His Majesty's Corps of Royal Engineers, and WILLIAM HEPWORTH MERCER Esquire C.M.G. all of Whitehall Gardens in the City of Westminster the Crown Agents for the Colonies (hereinafter referred to as the "Crown Agents") acting for and on behalf of THE GOVERNMENT OF THE EAST AFRICA PROTECTORATE (hereinafter referred to as "the Government.") of the one part and THE MAGADI SODA COMPANY LIMITED a Company incorporated pursuant to the law of England under the Companies (Consolidation) Act 1908 and having their registered office at Nos. 25 and 27 Bishopsgate in the City of London (hereinafter referred to as "the Contractors") of the other part.

**Whereas** by an Indenture dated the 12th day of April 1911 and made between the Crown Agents of the one part and the Contractors of the other part (hereinafter referred to as "the said Lease") certain lands and premises together with certain rights were granted to the Contractors for the purpose of working certain mineral deposits at Lake Magadi and elsewhere in the East Africa Protectorate:

**And whereas** the Government are willing on the terms hereinafter mentioned to facilitate the enterprise of the Contractors:

**Now this Indenture witnesseth** that for the consideration hereinafter mentioned the Contractors so far as the stipulations and agreements hereinafter contained are to be performed and observed by them do hereby covenant and agree with the Crown Agents and the Crown Agents so far as the said stipulations and agreements are to be performed and observed by the Government and so as to bind the Government and the Uganda Railway Administration but not so as to impose any personal liability on the Crown Agents do hereby covenant and agree with the Contractors as follows that is to say:—

Interpretation

1 In this Contract the following expressions or terms shall have the following meanings respectively —

The Protectorate

(a) "The Protectorate" means the East Africa Protectorate.

The Government

(b) "The Government" means the Government for the time being of the Protectorate

The Governor

(c) "The Governor" means the Governor for the time being of the Protectorate or the person for the time being acting as such

The Contractors

(d) "The Contractors" includes in addition to the parties hereto where the context so admits their successors and permitted assigns

The Railway

(e) "The Railway" means the Railway mentioned in Clause 4 herof together with all works apparatus and conveniences to be made or supplied in connection therewith

The Contractors' port

(f) "The Contractors' port" means the pier depôt works and conveniences and also the siding which the Contractors are by Clause 5 herof hereby empowered to make at or near Kilindini and any works substituted for the same as hereinafter provided

The Inspecting Engineer

(g) "The Inspecting Engineer" means and includes the person or persons for the time being appointed by the Crown Agents to act as Inspecting Engineer in respect of materials supplied for the purposes of this Contract

The Contractors' Engineer

(h) "The Contractors' Engineer" means the person appointed by the Contractors to carry on on their behalf the works in the East Africa Protectorate.

The Uganda Railway Administration

(i) "The Uganda Railway Administration" means the Administration or authority for the time being working or managing the Uganda Railway.

The General Manager

(j) "The General Manager" means the General Manager for the time being of the Uganda Railway.

(k) "Raw Soda" means Carbonate of Soda <sup>and</sup> or Carbonate of "Raw Soda" Soda mixed with any other Salts as obtained from any of the land mentioned in Clause 2 of the said Lease, before calcination and whether loose or packed.

(l) "Soda" means Soda Ash, Carbonate of Soda <sup>and</sup> or other Soda Salts of Soda as obtained from Raw Soda as above defined and whether loose or packed.

(m) "Soda Products" means Soda Crystals, Caustic Soda, Bicarbonate of Soda <sup>and</sup> or any other commodities or preparations which are recognised as Soda Products in the chemical industry and whether loose or packed

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

(o) "Coal" includes slack breeze and patent fuel manufactured from coal or slack and liquid fuel but does not include kerosine oil or other oils used for illumination or petrol motor spirit or oils used for other purposes than for fuel.

(p) "Month" means calendar month.

2. The General Manager may from time to time delegate to assistants to be named by him such of the powers, rights, authorities, and discretions vested in him by this Contract as he may think fit and the Contractors shall recognise such assistants on written notice of their appointment and of the powers, rights, authorities and discretions respectively delegated to them as lawfully exercising for the purpose of this Contract the powers and authorities so delegated.

3. The Contractors shall after the completion of the survey of the proposed Railway with all reasonable despatch cause their Engineer to draw up and submit to the Government for their approval a Specification and Plans and Sections for the construction of the Railway. The Specification when so submitted and approved is hereinafter referred to as the said Specification and the Plans and Sections when so submitted and approved are hereinafter referred to as the said Plans and Sections which expressions shall respectively include the same Specification Plans and Sections as altered or added to pursuant to these presents.

Contractors to construct and equip Railway in the Protectorate

4. Subject to the provisions of this Contract the Contractors at their own expense shall (on the Government at the request of the Contractors duly providing free of cost to the Contractors with all reasonable despatch as hereinafter mentioned the land referred to in Clause 10 of these presents) in accordance with the said Specification construct and equip with all necessary works apparatus and conveniences (other than rolling stock necessary for the handling of the traffic) and make ready and fit for being opened for traffic within the times and in the manner hereinafter prescribed:—

A Railway wholly in the Protectorate and consisting of a line commencing by a junction with the Uganda Railway at or near Kiu or Sultan Hamoud or elsewhere at such point as may hereafter be approved by the General Manager and thence passing to such terminus near the Lake Magadi and by such route as may be selected by the Contractors

Contractors to construct a pier and other works at Kilindini

5. The Contractors may build construct erect or lay down at Kilindini or elsewhere in the neighbourhood of Kilindini on a site to be provided by the Government on Crown land free of cost to the Contractors as a depot for the use of the Contractors a pier and such and so many wharves platforms warehouses buildings cranes lifting or lowering machinery or other labour saving devices and platforms sidings signals telegraph poles and wires and other conveniences of such dimensions and materials as they may deem necessary for the proper working of their traffic and also a siding connecting the said works with the Uganda Railway at or near Morobasi the whole of which are herein included in the term "the Contractors' port." In the event of Crown land not being available for the whole or any part of the said site and if the Contractors shall request the Government to provide for that purpose any lands not being Crown lands, then the Government will, at the expense of the Contractors, take such steps as may be necessary to acquire such lands; and any payment made in connection with such acquisition and for obtaining a grant of any such land to the Contractors, and any compensation payable in respect of such acquisition shall on demand be repaid by the Contractors to the Government. Provided (first) that all specifications and plans for building erecting or laying down any such works as aforesaid shall be submitted for the approval of the Government before any such works are begun; (secondly) that the Government shall not be required to provide free

of charge to the Contractors any larger site than is reasonably necessary for the requirements of the Contractors; (thirdly) that when the Government shall have once provided for the Contractors a site for the Contractors' port any further or other lands required by the Contractors for the purposes of this Clause shall be provided only upon such terms and conditions as to payment or otherwise, and subject to such stipulations as to the rights of other parties as to the Government shall seem expedient; (fourthly) subject to the management and control of the Contractors' port remaining in the hands and under the control of the Contractors and to the Contractors' traffic always having priority over any other traffic the Government shall have the use of the Contractors' port on such terms as may be agreed between the Government and the Contractors or in default of agreement may be settled by arbitration. Provided always that nothing herein contained shall in any way interfere with the Contractors' right to manage and work the Contractors' port in such manner and to such extent as may be most advantageous to their business; and (fifthly) in case the Government shall after providing for the Contractors a site under this Clause for the Contractors' port provide for the Contractors a site for the Contractors' port in place of the site provided under this Clause and having equal facilities therewith then the Contractors shall be at liberty to construct on such substituted site the works and conveniences authorised by this Clause and a siding connecting the same with the Uganda Railway or any branch thereof to be hereafter constructed and such substituted site together with the said works conveniences and siding shall become the Contractors' port for the purposes of these presents and the Contractors shall at the request of the Government when and so soon as the said works and conveniences shall have been reconstructed by the Contractors on such substituted site (in which respect the Contractors shall use all reasonable despatch) transfer any site provided under this Clause to the Government or as they may direct and upon such transfer the Government shall pay to the Contractors the amount of the capital outlay (as hereinafter defined) expended by them in the construction of the Contractors' port so transferred together with such a sum to be agreed upon between the parties hereto or in case of dispute to be determined by arbitration in manner hereinafter provided as shall be equal to the extra expense (if any) which the Contractors may incur in addition to the said capital outlay in reconstructing the Contractors' port upon the



new site together with such a sum (to be agreed or determined as last aforesaid) as shall make good to them any loss in respect of their soda (as defined by sub-sections E to N inclusive of Clause I of this Contract) business which they may sustain by reason of the transfer to such new site.

Contractors may construct works near Lake Magadi.

6. The Contractors shall be at liberty to build or construct upon such lands as they may within a period of five years reasonably select for that purpose on the Railway within 50 miles of Lake Magadi (such lands to be provided free of cost by the Government) all such stations platforms warehouses sheds workshops engines boilers machinery furnaces conveyors lifting and lowering machinery or other labour saving devices and other plant and conveniences as they may deem expedient. Any such works may also be built or constructed by the Contractors on the Railway within 50 miles of Lake Magadi at any time after such five years but in such case the Government shall not be bound to provide the land required for the purpose except on such terms as the Contractors and the Government may agree.

Mode of construction Standard of efficiency Gauge curve and gradients of Railway

7. The Railway is to be built of the same gauge and to the same standard of efficiency as the Uganda Railway, but the curves and gradients are to be such as are suitable to the physical features of the country through which the Railway passes, but except as provided by Clause 8 the maximum angle of curvature shall be 7 degrees and the maximum gradient 1.6 per cent. compensated at the rate of 0.03 per cent. for every degree of curvature.

Curve and gradient

8. (i) Between the junction of the Railway with the Uganda Railway and a suitable place to be approved by the Governor at or about 20 miles therefrom where an engine changing station can be established the maximum gradient of the branch line shall be 1.5 per cent. and the maximum angle of curvature shall be 10 degrees compensated at the rate of 0.03 per cent. for every degree of curvature.

(ii) Over the rest of the Railway except as provided in sub-head (v.) hereof the maximum gradient shall be 2 per cent. and the maximum angle of curvature 10 degrees compensated at the rate aforesaid.

(iii) The sleepers throughout except where agreed upon shall be of steel and laid not less than 2,112 to the mile where 50 lb. rails are used and 1,936 to the mile where 80 lb. rails are used.

(iv.) Water shall be provided at stations where required for working the Railway by storage or by other means by and at the cost of the Contractors.

(v.) In all places where a maximum angle of curvature of 10 degrees involves an expenditure which is prohibitive in the opinion of the Contractors' Engineer reversing stations (each consisting of 1 pair of shunts) may be substituted, but in no case are there to be more than 3 pairs of reversing stations without the consent of the Governor.

(vi.) The Uganda Railway Administration shall work the whole of the Railway if it is constructed to the Specification as agreed and so as to comply with the conditions of this Contract at the rates of freight as fixed in Clause 42 (a) to (g) of this Contract and no portion of the line shall be deemed to require special and expensive methods of working.

(vii.) Any question arising under this Clause or any sub-head thereof or as to the meaning or application thereof shall be decided by the Governor and his decision shall be final and binding on all parties.

9. The General Manager shall have power from time to time and at any time before the Railway shall have been finally completed to require the Contractors to remove any defective materials or work forming part of the Railway and to substitute therefor other and suitable materials or work in accordance with the said Specification and the Contractors shall duly comply with every such requisition. If the Contractors shall fail duly to comply with any such requisition the General Manager may cause the defective materials or work specified in such requisition to be removed and suitable materials or work in accordance with the said Specification to be substituted therefor and all expenses thereby incurred shall be paid by the Contractors to the Government.

Power for General Manager to require Contractors to remove defective materials or work

10. The Contractors shall within the time hereinafter limited at their own expense cause a detailed survey of the Railway to be made and prepare and submit to the General Manager or his deputy for his approval proper and sufficient plans and drawings showing on a scale not less than 400 feet to the inch the lands through or upon which the Railway is proposed to be constructed. Upon the approval of the said plans and drawings the Government shall with all reasonable despatch provide the Contractors with such land as may be necessary.

Contractors to submit for approval plans showing lands proposed to be taken.

in accordance with the said plans as and when approved by the General Manager for the construction of the Railway. Provided always that if the completion of the Railway <sup>and</sup> the Contractors' port shall be retarded by delay in the delivery of any of the said lands to the Contractors the time limited for completion of the Railway as hereinafter provided shall be proportionately extended.

Also plans showing the mode of construction of works.

11. The Contractors shall also prepare and submit to the General Manager with reasonable expedition all such detailed plans sections and drawings of or connected with the Railway or any bridges viaducts culverts stations buildings and other works and all such other plans and particulars as may reasonably be required with reference to the construction or equipment of the Railway and the Contractors shall not commence the construction of any work until all the plans in relation thereto have been approved in writing by the General Manager such approval to be given within two months after such plans sections drawings or particulars have been submitted by the Contractors. Two copies of the same plans sections drawings and particulars shall after such approval as aforesaid and before the commencement of the construction be deposited by the Contractors with the General Manager.

Minerals in and precious stones in or under lands acquired by Government required for construction.

12. No grant or provision of lands by the Government under this Contract shall be deemed to confer upon the Contractors any right to any minerals or precious stones in or under or near such lands but shall confer upon the Contractors a right of support both vertical and lateral therefrom but such minerals and precious stones shall be reserved to the Government who shall have the free right and liberty by themselves their servants or licensees to enter upon the said lands for the purpose of searching for digging and carrying away such minerals and precious stones so far as can be done without interfering with the construction or working of the Railway or causing any subsidence of the Railway or of any buildings works or premises connected therewith and the Government shall make good all damage done by any such entry searching for digging or carrying away.

13. The Contractors shall from time to time with the sanction of the Uganda Railway Administration as soon as practicable relinquish to the Government such of the land provided by the Government (whether included in any lease granted under this Contract or not) of which the Contractors shall be allowed possession under this Contract as shall for the

time being have become unnecessary to be retained by the Contractors for any of the purposes of this Contract or of the Railway whether immediate or prospective. And whenever in the opinion of the Uganda Railway Administration it shall appear to be unnecessary that the Contractors shall retain possession of any particular land of which the Contractors shall have been allowed possession or which shall be included in any lease granted to the Contractors under this Contract but not lands included in the said Lease the Uganda Railway Administration shall certify such their opinion to the Contractors. Upon receipt of such certificate or as soon thereafter as may be the Contractors shall state in writing whether they acquiesce in the opinion of the Uganda Railway Administration or whether they object thereto and if so the grounds of their objection. If any objection is stated by the Contractors and the grounds of their objection are not in the opinion of the Government sufficient the case shall be submitted to arbitration. Provided that no land is to be deemed unnecessary to be retained by the Contractors as aforesaid if it is likely to be required in the future for further developments of the Railway.

All costs of surveys construction etc. to be borne by the Contractors.

14. The whole of the costs of surveying staking and laying out the Railway and the lands to be taken as aforesaid and the costs of the construction and equipment of the Railway and of the maintenance thereof for one year after it has been opened for traffic and of all labour and materials for the same shall be borne and paid by the Contractors but this Clause is not to extend to rolling stock necessary for the handling of the traffic after completion of the Railway.

Lease of Railway to the Contractors.

15. Subject to the provisions of this Contract and subject as to accommodation works to the right of user and enjoyment thereof by the persons for whose benefit the same shall be constructed on the completion of the Railway the Crown Agents will grant and the Contractors will accept a lease of the Railway and subject to Clause 13 hereof of the lands provided by the Government for the purposes of this Contract during the term granted by the said Lease determinable upon the expiration or sooner determination of the said Lease at the yearly rent of five shillings. Such lease shall contain such covenants on the part of the Contractors as may be reasonably required for giving full effect to the provisions of this Contract and also a covenant that the Contractors and any Company or Corporation becoming by assignment or otherwise entitled to the term granted by such lease or any part thereof or to possession of the

demised premises shall be and remain British in constitution and character registered in Great Britain or a British Colony and having its principal place of business within His Majesty's dominions and the Chairman of the Company and at least four-fifths in number of the Directors shall at all times be and remain British subjects and a proviso for re-entry on non-payment of the rent thereby reserved or breach of any of the covenants therein contained but such proviso for re-entry shall be subject to all such restrictions and conditions and relief against forfeiture as shall for the time being be applicable under the law of England to provisos for re-entry contained in leases of English land. Until the Contractors shall be entitled to a grant of any such lease as aforesaid the Contractors shall be deemed to be tenants-at-will of the Government in respect of any lands provided for the Railway.

16. The Contractors shall construct and equip the Railway in accordance with the said Specification Plans and Sections and under the supervision of the General Manager and shall not make any alteration in the said Specification Plans or Sections or deviation therefrom without the previous consent in writing of the General Manager which consent shall not be unreasonably withheld.

17. The detailed survey for laying out the Railway shall be *bonâ fide* commenced not later than three months from the date of this Contract and the Contractors shall use their best endeavours to complete the same within twelve months of its commencement and the actual construction of the Railway shall be commenced not more than nine months from the date of these presents or from the completion of the survey whichever shall be the later date and the Railway and the Contractors' port shall be completed and equipped in all respects in accordance with this Contract and opened for traffic and use within two years from the commencement of the construction of the Railway.

18. All materials and things (except any plant or materials belonging to the Contractors and intended to be only temporarily used in the construction of the Railway) manufactured in or derived from any country except the Protectorate and to be provided and shipped by the Contractors to the Protectorate for the purposes of this Contract shall before being removed for shipment be submitted to the inspection and approval of the Inspecting Engineer or his representative and the Contractors shall

give the Inspecting Engineer not less than fourteen days' notice in writing before removing any such materials or things for shipment.

19. If any such materials or things as aforesaid are manufactured or prepared in any country other than the Protectorate expressly for the purposes of this Contract the Inspecting Engineer or his representative may from time to time inspect the same during the course of manufacture or preparation and the Contractors shall give the Inspecting Engineer not less than fourteen days' notice in writing of the time of commencement of the manufacture or preparation of such materials and things and shall specify in such notice the place of manufacture or preparation and shall from time to time send to the Inspecting Engineer such report of the progress of manufacture or preparation as he may require. The Inspecting Engineer may make any reasonable requirements as to testing any such materials or things at the expense of the Contractors.

20. The Contractors shall comply with all obligations which may be imposed on them by any General Ordinance for the time being in force in the Protectorate and in addition thereto the Contractors shall in the construction of any of the 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 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 rights or property and the Contractors 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 the works or the use of any plant, engines or other appliances in connection therewith and if the Government shall by reason of the default of the Contractors make any payment in respect of such damages, claims or losses the Government may recover such amount from the Contractors. Provided that this clause shall not extend to any accidents, damages, claims or losses 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 have arisen from some neglect or default of the Contractors.

Inspection by  
Inspecting  
Engineer  
of materials  
during  
manufacture.

As to inter-  
ference with  
public or  
private  
rights.

Contractors to  
comply with  
Specification

Time for  
survey and  
construction  
of Railway

Time for  
completion  
Railway

Inspection of  
materials by  
Inspecting  
Engineer

Minerals, etc., found on site of Railway to be the property of the Government.

21. All gold silver and other minerals of any description and all precious stones coins treasure relics antiquities and other similar things which shall be found in or upon the site of the Railway in the Protectorate shall be the property of the Government provided the same be not found within the area covered by the said lease.

Contractors to provide office.

22. The Contractors shall at all times provide a suitable office on the site of the Railway where notices may be left for or addressed to them if thought fit and a responsible Resident Engineer or Superintendent to whom notices may from time to time be given. And after every inspection of the Railway complaints or requisitions (if any) shall be addressed to the Resident Engineer or Superintendent. If the complaints or requisitions cannot thereupon be remedied or complied with the General Manager shall communicate his complaints or requisitions to the Contractors' Engineer for the purpose of determining how the said complaints or requisitions may be best remedied or complied with.

As to complaints by Engineers.

Power to extend time for construction of certain works.

23. The General Manager may from time to time on the request in writing of the Contractors extend the time for the construction of the Railway or any part thereof for such period as he may think fit.

Contractors to be at liberty to take and use timber being property of the Government.

24. The Contractors shall be entitled on such terms as may be agreed to take from such places in the Protectorate as may have been previously approved in writing by the Government and to use but only for the purpose of the construction of the Railway any suitable timber stones or other material being the property of the Government.

Fuel and materials to be imported duty free.

25. No import duties shall be payable or levied upon or in respect of any machinery plant materials or rolling stock imported into the Protectorate for the purpose of the construction of the initial equipment of the Railway or the Contractors' port. The rate for the carriage other than the cost of loading and unloading (except at intermediate places) which services except as aforesaid shall be performed by and at the costs of the Contractors over the Uganda Railway of such machinery plant materials and rolling stock as aforesaid and of fuel for the construction or equipment of the Railway shall be from Kilindini to the junction of the said Railway with the main line of the Uganda Railway one penny per ton per mile. The same rate shall apply both as regards the Uganda

Rate for carriage thereof.

Railway and the Railway to the carriage of all machinery plant and materials which the Contractors may import for the purposes mentioned in Clause 6 of this Contract up to the end of the first five years after completion of the Railway.

Power to Government to erect telegraphs and telephones.

26. The Government may at any time cause a line or lines of electric telegraph or telephones to be constructed along the line of the Railway for the use of the Government and for that purpose may from time to time enter upon and occupy so much of the lands of the Contractors taken under the powers aforesaid as may be necessary for the purpose without making any compensation therefor but making good all damage done and so constructing and using the said telegraphs and telephones as not to interfere either in the construction or use thereof with the efficient working of the Railway and such telegraphs and telephones may be used by the Government or their nominees for the purpose of transmitting messages by any system or invention now or at any time hereafter in use. The Contractors may make and use for the purposes of their own business in connection with this Contract or the said Lease such lines of telegraphs and telephones along the line of the Railway as they think fit and similarly work the same by any system or invention now or at any time hereafter in use.

Police during construction.

27. The Government will provide and maintain at the cost of the Contractors such a force of police beyond the ordinary police establishment for the time being maintained in the neighbourhood as with the approval of the Government shall from time to time be required for the protection of so much of the Railway as shall for the time being be under construction. The cost of providing and maintaining such police shall be taken to be such as from time to time stated by the Government and shall be paid from time to time by the Contractors to the Government on demand.

Option to Contractors to acquire land within a quarter mile of Railway.

28. The Government shall not at any time during the continuance of this Contract sell lease or otherwise dispose of any land within a quarter of a mile on either side of the Railway to any person persons or corporation other than the Contractors without first giving the Contractors the option of acquiring from the Government any such land on the same



or similar terms and conditions as those on which the Government may be willing to dispose of the same to any other person or persons or Corporation.

No arms or ammunition to be sold to natives.

29. The Contractors shall not at any time during the continuance of this Contract sell give barter or otherwise dispose of any arms or ammunition of any description to any natives or native or permit or suffer any of its employees to make any such sale gift barter or other disposition.

No spirituous liquors to be sold to natives except for Europeans.

30. The Contractors shall not at any time during the continuance of this Contract sell give or barter any spirituous liquors to any natives or native or permit or suffer any such sale gift or barter to be made by any employee or agent of the Contractors or import or authorise the importation of any spirituous liquors into the Protectorate or any part thereof otherwise than for the use of the European agents or employees of the Contractors and upon and subject to such rules as may from time to time be made by the Governor.

As to liability of Contractors for special services.

31. If the Government shall incur any expenditure in erecting or maintaining any sanitary works or regulations upon or in the neighbourhood of the Railway the Contractors shall so far as such expenditure is rendered necessary or increased by the operations of the Contractors or by the presence of the Agents or workmen of the Contractors 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 under the circumstances such proportion in case of difference to be settled by the Governor.

Huts or other accommodation, food, hospitals and medicines for use of natives.

32. The Contractors shall also provide at or near the site of the works such huts or other accommodation for the use of the native labourers or workmen employed in the construction and maintenance of the Railway and also such hospitals medical officers and attendants medicines and medical stores for the use of and as may be necessary.

Native labour.

33. The Contractors shall at all times comply with such requirements and make such arrangements as may be given or directed by the Government to secure the suitable treatment of native labourers or workmen.

34. An account of all monies properly chargeable to capital expended by the Contractors for the purpose of the construction of the Railway and the Contractors' port in accordance with the provisions herein contained shall be kept and from time to time submitted to the Government for the purpose of being vouched and the Government shall have the right to audit the same if they so desire within six months of the same being submitted and in the event of the said account not being agreed the amount thereof shall be settled by Arbitration and the amount shown by such account when so agreed or settled as aforesaid shall be treated as capital outlay for the purpose of this Contract. If any alterations additions or improvements shall thereafter be made in or to the Railway and/or the Contractors' port a similar account shall be kept in respect thereof and the same shall be subject to a similar audit agreement or settlement and the cost incurred in executing such alterations additions and improvements shall be added to the capital outlay aforesaid and the total shall be treated as the total capital outlay for the purpose of this Contract the principle upon which such accounts are to be made up being that capital is to bear the cost of the new works and of substantial alterations additions and improvements to old works and that the cost of repairs restorations renewals or replacements is to be borne by revenue.

Capital outlay

35. When the General Manager shall have certified that the Railway has been constructed in accordance with the provisions herein contained and is ready and fit for the conveyance of passengers and goods, there shall be prepared by the Contractors' Engineer at the Contractors' expense a statement describing the nature and quality of the works and setting out the general details of the construction of the same as regards earth-works, bridges, ballast, permanent way, station buildings and all other matters of a permanent character so as to show the standard up to which the works have been constructed together with plans and working drawings of the same. Such statement plans and working drawings shall be signed by the General Manager and by the Contractors or their Engineer and shall be retained by the Government and be from time to time revised and completed up to date as occasion may require.

Record of mode of construction of Railway to be prepared by Contractors.

To be retained by Government.

36. As soon as may be after the statement plans and drawings lastly hereinbefore referred to have been signed as aforesaid the Railway shall be made over by the Contractors to the Uganda Railway Administration to the intent that the same may be opened for traffic and may

Railway to be handed over to the Uganda Railway Administration.

be worked in the manner hereinafter mentioned. The Uganda Railway Administration shall accept the Railway when so made over as aforesaid and shall forthwith open the same for traffic. Provided always that subject as hereinafter provided the Railway shall not be used for the carriage of goods not belonging to the Contractors without their consent (such consent not to be unreasonably withheld) nor except on such terms as the Contractors shall reasonably approve.

37. The Uganda Railway Administration shall thenceforth (subject to the provisions of Clause 44) until the determination of this Contract work and maintain in working order the Railway and shall provide and maintain all necessary rolling stock at the estimated maximum cost of £203,500 for the efficient working of the Railway on the terms and subject to the provisions hereinafter contained. Provided nevertheless that the said Uganda Railway Administration shall not be bound to provide tank cars or any special waggons or conveniences for the carriage of liquid fuel and the contractors shall provide such special tank cars (if any) as they may require for the carriage of their liquid fuel but shall not be entitled to any rebate or allowance off the rate or respective rates for conveyance mentioned in Clause 42 by reason of the provision of any cars provided by them.

38. The Government shall have the right at any time or times for urgent State purposes of the need for which the Government shall be the sole judge to take temporary possession of the whole or any part of the Railway and the Contractors' port or either of them or any of the rolling stock telegraphs telehouse buildings and other things of every description and to use the same for their own purposes without any consent on the part of the Contractors. And the Government shall also at any time or times be entitled to have any of their Military Marine and Police Forces and their arms horses guns ammunition baggage and stores and also all mails mail bags and post office requisites and things conveyed over the Railway or to the Contractors' port in priority to any other traffic and if in cases of urgency the Government so require with all the resources of the Railway.

39. All the business connected with the management and maintenance of the Railway and conducting the traffic thereon shall in all respects as far as practicable be carried on in the same manner and subject to

Uganda  
Railway Ad-  
ministration  
to work  
Railway and  
provide  
rolling stock.

Government  
use of  
Railway.

Railway to be  
entirely under  
control of  
Uganda  
Railway  
Administration.

the same regulations and control as the Uganda Railway and the Contractors shall not interfere with such business, but the Uganda Railway Administration will use their best endeavours to provide that the traffic of the Contractors is not (subject nevertheless to the provisions of the last preceding Clause) prejudicially delayed by any other traffic.

40. The Government and the Uganda Railway Administration shall have power (subject to the provisions of Clause 39 herof) from time to time to do any of the following acts or things namely to—

(a) Allow the use of any of the stations belonging to the Railway for the accommodation of the traffic of any other railway upon the payment of reasonable tolls and under reasonable conditions and restrictions and also upon reasonable terms to make such alterations and additions as may in the opinion of the Uganda Railway Administration be necessary or convenient for the purposes of such accommodation but no such alterations or additions shall involve the Contractors in any liability to pay or be charged with any capital expenditure.

(b) Allow the use of the Railway or any part or parts thereof for the passage of engines and trains from or to other railways of the same gauge upon the payment of reasonable tolls and under reasonable conditions and restrictions.

(c) Make reasonable arrangements for the interchange of traffic and for through booking between the Railway or any part thereof and other Railways.

41. Except as herein specially provided with respect to the Contractors' traffic the rates and fares for the carriage of goods and passengers over the Railway or any portion thereof shall be such as may from time to time be fixed by the Uganda Railway Administration at their absolute discretion with the approval of the Government and the classification of goods thereon shall be in conformity with that from time to time in force on the Uganda Railway except that the fares and rates per mile on the Railway shall be at least equal to those on the Uganda Railway.

42. The following provisions shall have effect with respect to the Contractors' traffic over the whole line of railway between the Contractors' works as hereinafter defined and the Contractors' port that is to say:

Uganda  
Railway  
Administra-  
tion to allow  
use of  
Railway for  
certain  
purposes.

Uganda  
Railway  
Administra-  
tion to fix  
rates and  
fares.

Special rates  
to be given  
to the Con-  
tractors for  
fuel and soda.

working the traffic of one-sixteenth of a penny per ton per mile but so that the said rates when so increased respectively shall in no case exceed one penny per ton per mile. Provided that such maximum of one penny shall only apply for a period of 21 years from the time when the operations shall be deemed to have commenced.

(f) If on the other hand it has been found that during the said period of three years or the period of five years as the case may be then last expired the receipts derived from the Contractors' coal and soda traffic exceeds the cost of working the same by more than one-sixteenth of a penny per ton per mile the rate shall be lowered to such an extent that the profit of the Railway over the cost of working the traffic shall not exceed one-sixteenth of a penny per ton per mile but in no case shall the said rates for conveyance or any of them respectively when so decreased be less than nine-sixteenths of a penny per ton per mile.

(g) The service of loading and unloading the Contractors' coal and raw soda soda soda products and manufactured soda at the Contractors' port and at Kiliudini and at the Contractors' works shall in all cases be performed by and at the sole expense of the Contractors, but the service of loading or unloading (if any) at intermediate points on consignments booked through between the Contractors' port and the Contractors' works shall in all cases be performed by and at the sole cost of the Uganda Railway Administration.

(h) For the purpose of ascertaining the cost of working referred to in the preceding paragraphs working expenses shall mean and include only such payments as in like concerns are usually chargeable to revenue and if any question shall arise as to what constitutes working expenses such question shall be determined on the general principle that capital is to bear the cost of new works and of additional rolling stock plant and machinery and of substantial improvements of and additions to old works rolling stock and machinery including the cost of temporary new work the construction of which is requisite for the construction of a work chargeable to capital and that only the cost of repairs restorations renewals replacements and substitutions other than such as may be due to defective construction is to be borne by revenue.

(j) The account of working expenses for each of the specified periods shall after being audited by the person or persons for the time being appointed for that purpose by the Government (hereinafter called "the Government Auditors") be submitted to the Contractors who shall be at liberty to have the accounts subsequently audited by some person or persons (hereinafter called "the Contractors' Auditors") from time to time appointed by the Contractors for that purpose and approved by the Government (such approval not to be unreasonably withheld) and the Government shall afford all reasonable facilities for every such audit by the Contractors' Auditors. If the Contractors' Auditors shall make any objection to any account audited by the Government auditors the matter in difference shall be referred to and finally settled by some person or persons appointed for that purpose by His Majesty's Secretary of State for the Colonies for the time being.

k. The Contractors shall not be entitled to claim the rates fixed by this clause for the carriage of such soda products or manufactured soda the market value of which would for the time being call Thames be 75 per cent higher than the market value of Thames of Soda ash.

(l) No Customs Excise or import duties shall be payable or levied upon or in respect of any Coal imported into the Protectorate for the purposes of the Railway <sup>and</sup> <sub>or</sub> the Contractors works <sup>and</sup> <sub>or</sub> the Contractors' port provided that the Contractors shall not so long and so long only as the importation of such coal would but for the provisions of this sub-clause render the same liable for duty sell give away or dispose of the same otherwise than for the purposes aforesaid.

43. The following additional provisions shall apply in relation to the conveyance of the Contractors' traffic

(a) The Uganda Railway Administration will unless prevented by circumstances beyond their control undertake to carry such raw soda soda soda products and manufactured soda as may be consigned by the Contractors up to a total amount of 50,000 tons in any one year, but should the Contractors at any time require a larger amount carried in any one year they shall be entitled

to give the General Manager twelve months notice of such requirement and of the extent thereof and in that event the Uganda Railway Administration undertakes to carry such additional quantity up to 160,000 tons in any one year provided that they shall be under no obligation to carry during any one month more than 12 per cent. of the total quantity they are liable to carry during that year and the Uganda Railway Administration shall make such improvements to its Main Line (at an estimated maximum cost of £146,500) as may in the opinion of the Governor be necessary for carrying the quantity of 50,000 tons aforesaid or such additional quantity up to 160,000 tons in any one year as aforesaid.

(b) The raw soda soda soda products and manufactured soda shall be carried in the trucks of the Uganda Railway Administration properly protected from the weather and from dirt and the Contractors shall in the case of detention of trucks by the Contractors pay such an additional sum for demurrage as the Uganda Railway Administration may reasonably fix but in no case exceeding the published rates for the time being.

44. The Contractors shall at their own expense for the period of 12 months after the opening of the Railway for traffic maintain and keep the Railway in working order to the satisfaction of the General Manager. And subject to and without in any way limiting the liability of the Contractors under the preceding part of this Clause the Contractors shall during such time as the Railway shall remain vested in them and be worked by the Uganda Railway Administration be liable to provide funds for making good all damage to the Railway which shall be due to extraordinary casualty affecting the same and of such a nature that in accordance with the provisions of Clause 34 the cost of making good such damage would be made a charge against capital and the Contractors shall on demand pay to the Uganda Railway Administration the amount expended by them in making good such damage but no such work is to be undertaken without the consent of the Contractors. Provided that if in any such case the Uganda Railway Administration and the Contractors shall not agree as to the liability of the Contractors or the amount to be expended under this part of this Clause the Government will cause the matter in question to be

Maintenance for twelve months the cost of repairs shall be chargeable to capital thereafter to be borne by Contractors



referred to arbitration under the provision for arbitration hereinafter contained and so far as it shall be decided on such arbitration that any charge should be excluded from working expenses it shall be borne by the Contractors and be charged to the capital account of the Railway and so far as it shall be decided on such arbitration that any charge should be included in working expenses it shall be borne by the Uganda Railway Administration and be charged to the revenue account of the Railway and such decision shall be binding on all parties.

Interest on  
sums due to  
Uganda Rail-  
way Adminis-  
tration or to  
Government.

45. Any sum due to the Uganda Railway Administration or to the Government under any of the preceding Clauses shall bear interest thereon at the rate of Four pounds per centum per annum from the date of demand.

Yearly  
accounts to be  
furnished by  
the Uganda  
Railway  
Administration

46. After the Railway shall have been opened for traffic so long as the same shall remain vested in the Contractors and unless until the Government shall exercise the power of purchase hereinafter reserved the Uganda Railway Administration shall within 150 days after the expiration of every year ending on the 31st day of March furnish to the Contractors accounts showing the gross receipts and the charge for working the Railway during such year and one-half of the net profits of the Railway as shown by such accounts shall be paid to the Contractors. The net profits of the Railway shall be ascertained by deducting the working expenses of the Railway from the gross receipts thereof. The gross receipts from the traffic interchanged between the Uganda Railway and the Railway shall for the purposes of the contract be apportioned between and credited accordingly to the Railway and the Uganda Railway in proportion to the mileage over which such traffic shall have passed. The working expenses of the Railway shall for the purposes of this Contract be deemed to be the actual expenditure incurred on Maintenance of Way Works and Stations (Abstract A of the audited accounts of the Uganda Railway) including the provision of a sum not exceeding £30 per mile per annum for the maintenance and renewal of the permanent way and an amount per mile of line equal to the average cost per mile of maintaining and working the Uganda Railway under the sub-heads of

Half Net  
Profits to  
paid to  
Contractors.

How Net  
Profits to  
be ascertained

Working  
expenses to  
be ascertained

Abstract A. for which no direct charge is made and an amount per train mile equal to the average cost per train mile of working the Uganda Railway under Abstracts B, C, D, E, F, G, being Locomotive Carriage and Wagon Traffic General Charges and Special and Miscellaneous Expenses respectively. The said audited accounts of the Uganda Railway shall be conclusive evidence of the amounts to be charged to the working expenses of the Railway. Provided that this clause shall not apply to any part of the said Railway as shall necessarily require to be worked by special methods.

47. If the survey for laying out the Works shall not be *bona fide* commenced within 12 months from the date hereof or if the actual construction of the Railway shall not be *bona fide* commenced at least 12 months before the date hereby fixed for the completion thereof or if the Railway or the Contractors' port shall not be completed within the time hereinbefore provided or if the Contractors shall fail for 6 calendar months after demand to pay any sum due to the Government or the Uganda Railway Administration or commit any other breach of any of the provisions of this Contract and shall not remedy such breach within a reasonable time after being required by the Government so to do or in case the said Lease shall be determined otherwise than by effluxion of time or if the Contractors or any of them being persons or a person should become bankrupt or compound with or make any assignment for the benefit of his or their Creditors or if a Receiver of the Contractors' undertaking or any part thereof shall be appointed by any Court of competent jurisdiction or being a Company if an Order shall be made or an effective resolution passed for winding up any Company to which this Contract may have been assigned under the provisions in that behalf hereinafter contained except with the previous consent in writing of the Government for the purposes of reconstruction only then and in any such case in addition and without prejudice to any other rights given to the Government by this Contract and notwithstanding any previous waiver of the rights of the Government or any previous exercise by them of any of such rights the Government shall have the following rights that is to say:

Rights of the  
Government  
in breach of  
Contract by  
or insolvency  
of Contract-  
or or assign-  
ment of the  
said Lease.

(a) In the case of such failure to commence the survey or the actual construction of the Railway or in case of the said Lease

being determined otherwise than by effluxion of time a right to rescind this Contract;

(b) And in any other of the events aforesaid a right to purchase all the assets of the Contractors under this Contract on giving one month's notice at any time after the happening of such event on the same terms as in the next succeeding Clause mentioned as they may elect as if the time for purchase under that Clause had arrived

Power of Government to purchase Railway and Contractors' port at any time.

48. The Government shall be at liberty to purchase from the Contractors the Railway and (subject to their providing the Contractors with another site for the Contractors' port having equal facilities therewith and on their paying to the Contractors the extra expense if any which the Contractors may incur in addition to the capital outlay in re-constructing the Contractors' port upon the new site together with such a sum to be agreed upon between the parties hereto or in case of dispute to be determined by arbitration in manner hereinafter provided as shall make good to them any loss in respect of their soda (as defined by Sub-sections K to N inclusive of Clause 1 of this Contract) business which they may sustain by reason of the transfer to such new site) the Contractors' port at any time after giving one year's notice of their intention so to do. In any such case the purchase price of the said Railway shall be a sum equal to the capital outlay as defined by Clause 34 and of the Contractors' port a sum equal to the capital outlay as defined by Clause 34 together with a sum equal to 25 per centum on the capital outlay on the Pier.

Power of purchase after partial exercise of preceding power.

49. In case the Government shall at any time or times exercise the powers hereby given to them under the preceding Clause to purchase the Contractors' port or the Railway the Government shall subsequently be at liberty to exercise the like powers in respect of the Railway or the Contractors' port as the case may be as they shall from time to time think fit.

Provision as to Debentures.

50. In the event of the Government purchasing the Railway any sum for the time being outstanding on account of any loans debentures

or debenture stock and the interest thereon shall as from the date when the Government take possession cease to be a charge upon the Railway and shall thenceforth be a charge on the sum payable by the Government to the Contractors and every Certificate of Debenture Stock and every Debenture purporting to create a charge upon the Railway shall bear an endorsement to this effect and as to the Government's powers of purchase under this Contract and powers of cancelling the same

Endorsement on Debenture Stock and Debentures.

51. Every approval or notice to be given or served by or on behalf of the Government or the Crown Agents may be given by writing signed by the Governor or by one of the Crown Agents.

Notices by Crown Agents.

52. The Contractors shall not assign lease or otherwise dispose of the benefit of this Contract or the Railway or any part thereof without the previous consent in writing of the Crown Agents which shall not be unreasonably withheld. Provided always that the Assignee shall execute this Contract and every lease to be granted under the provisions herein contained or a duplicate or duplicates thereof or such other deed or document as shall be necessary to render the Assignee liable under this Contract and any such lease to the obligations on the part of the Contractors herein or in any such lease contained.

Contract not to be assigned, &c. without consent of Crown Agents.

53. The Government shall have the same rights and remedies against any such assignee and such assignee shall have the same rights and remedies against the Government as would have been the case if such assignee had been a party hereto instead of the Contractors but the Government shall have no further rights or remedies against the Contractors.

Government to have same rights against assignee as against Contractors.

54. No member or officer of the Government shall be in anywise bound personally for the acts and obligations of the Government under this Contract or answerable for any default or omission in the observance performance or fulfilment of the acts matters or things which are hereby made obligatory on the Government.

Members or officers of the Government not to be personally liable.

Certificate of the Governor

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

Notices how to be given to Contractors

56. All notices to be given to the Contractors for the purposes of this Contract shall be in writing under the hand of the Governor or of the Crown Agents or one of them or of the General Manager and shall in accordance with the requirements of the circumstances either be delivered to or left for the Contractors at their office on the site of the Railway referred to in Clause 22 hereof or at the address above mentioned or other the registered address of the Contractors for the time being in England or at their principal or last known place of business in the Protectorate

Force majeure

57. Except in cases of any in which the Contract expressly provides to the contrary no failure or omission by the Contractors in the observance or performance of any of the stipulations agreements or conditions herein contained and on the part of the Contractors to be observed or performed hereunder shall give rise to any claim or demand against the Contractors or in any manner operate to the prejudice of the Contractors or be deemed a breach of this Contract 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 lock-outs of workmen not properly attributable to the improper acts or defaults of the Contractors or any other extraordinary or unforeseen circumstances which in the opinion of the Governor may be beyond the reasonable control of the Contractors. And if and so often as anything which the Contractors 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

58. 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 Works or any part thereof respectively or the

construction meaning or effect of this Contract or of any award made in pursuance hereof or any Clause or thing contained in this Contract or in 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 this Contract 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 three arbitrators one to be appointed by each party to the reference and the third by the two arbitrators so appointed or (if such two arbitrators fail for one month after their appointment to appoint such third arbitrator) by His Majesty's Secretary of State for the Colonies for the time being. The decision of such umpire or arbitrators or of any two of such 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.

59. 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.

60. 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 in parts.

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

May inspect books and accounts and examine on oath.

And provide  
for costs.

62. 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 con-  
struction of  
Contract.

63. The marginal notes hereto are for the sake of convenience only and shall not affect the interpretation or construction of this Contract.

**In Witness** whereof the Crown Agents have hereunto set their respective hands and seals and the Contractors have caused their Common Seal to be hereunto affixed the day and year first above written.

Signed sealed and delivered by the  
above-named REGINALD LAURENCE  
ANTROBUS, MAURICE ALEXANDER  
CAMERON and WILLIAM HEPWORTH  
MERCER in the presence of

R. L. ANTROBUS (L.S.)

M. A. CAMERON (L.S.)

W. H. MERCER (L.S.)

CHARLES H. OMMANNEY

3 & 4 Great Winchester Street,  
London, E.C.

Solicitor.

The Common Seal of The Magadi  
Soda Company Limited was  
hereunto affixed pursuant to a  
resolution of the Board of Directors  
in the presence of

WALTER H. SAMUEL *Director*

J. HARWOOD DARTON *Secretary*

The  
Magadi Soda  
Company Limited