

EAST AFR. PROT.
18524

C. O.
18524
REC'D
APR 21 1915

Sutton
Osmanney &
Rendall

1915
20th April

Last previous Paper.
Gov
16-15

EAST AFRICAN ESTATES CONCESSION

Enclosed for consideration and approval drafts in triplicate of the proposed Lease.

Mr. Trenchard Mr. [unclear] to read
we have still to hear from the Co as to
execution locally on this [unclear]

I am afraid we are rather overlooking
the term "Tarn Desert". Even if it extends
as far up the railway as Voi (cf. old
lease in 42115/14) that is only half
way to Kibito Gadi (Kipnuro Gadi).
We may get the Gov's dispatch ^{of March} no
12892+15207 - in time for this point &
it may be of use; but could we not (if we
wish
have to spare the draft further for other
purposes), say a clause (1) "The
Tarn Desert or [unclear] in the [unclear]
Part 2 must refer to [unclear]
Desert? "
Give (1) to the above

Part 2

Drafts annexed

Next subsequent Paper

18910

[unclear] the [unclear] [unclear]
 [unclear] things to [unclear] [unclear]
 about the [unclear] [unclear]. He [unclear] [unclear]
 [unclear] [unclear], he [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear] [unclear]
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 [unclear] [unclear] [unclear] [unclear] [unclear]

As to the definition of the
 Vorn desert area - agree
 that we might say "or
 thereabouts" & [unclear] the
 [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear] [unclear]

It is surely not sufficient
 to say land lying south
 of the railway between the
 two stations. Presumably
 this means between the
 lines drawn due south
 from the stations (? ²³¹avg.
 from the particular point in the
 stations), but on looking
 at the map I am not
 quite sure that we mean
 to take a due N & S
 boundary.

Anyway we should make
 out exactly what we
 mean & then say it.

Cl. 4 is not satisfactory
 yet. My objection was
 a framed rather a
 technical one, but having
 taken it we must try
 to put it right.
 I think the suggested

penetral alteration with
do it

Went full we
set the for
des patch of

March 22
The les' reply to
our letter on
16715

CB

24.4.15

W. regards the Tom desert
of the description (for the limited
area) in 42115 I have made
a pencil suggestion

W.S.S. 24.4.15

See how 18910

Put by.

done.

J.R.

17/12/15

224, GREAT WINCHESTER STREET,
LONDON, W.C.

April 20th 1915.

235

C. O.
18524
REC'D
REC'D 21 APR 15

Sir,

EAST AFRICA PROTECTORATE
East Africa Estates Limited.

In reference to our interview with Mr. Tompkins on the 14th instant, we enclose you herewith for your consideration and approval draft in triplicate of the proposed Lease amended, in accordance with the instructions received at that interview.

We are, Sir,

Your obedient Servants,

John Dunning Ruddell

The Under Secretary of State for the Colonies.

EAST AFRICA PROTECTORATE.

Lease

OF

LANDS IN THE SEYIDIE PROVINCE IN THE EAST
AFRICA PROTECTORATE.

DATED _____ 1915.

SUTTON, OSBORN & RENDALL,
8 & 6 Great Winchester Street,
London, E.C.

East Africa Protectorate.

This Indenture made this _____ day of _____ 191

Between HIS MOST GRACIOUS MAJESTY KING GEORGE THE FIFTH of the one part and the EAST AFRICAN ESTATES LIMITED a Company incorporated pursuant to the law of England and having its Registered Office at Carlton House Regent Street in the County of London (hereinafter referred to as "the Lessees" which expression shall include their successors and permitted assigns where the context so admits) of the other part.

*The C. H. Lyman
1. Ass. old Lessee*

Witnesseth that in consideration of the surrender of a former Lease of the hereditaments hereby demised and other hereditaments dated the 20th day of April 1910 and made between the Crown Agents for the Colonies of the one part and the Lessees of the other part and of the rent and reservations hereinafter reserved and of the covenants by ~~the Lessees~~ ^{the Lessees} hereinafter obtained or implied by ~~one of~~ ^{the} provisions of the Crown Lands Ordinance 1902 His Majesty doth hereby demise unto the Lessees First all that piece or parcel of land situate South of Mombasa in the Seyidie Province in the East Africa Protectorate more particularly described in the First Part of the First Schedule hereto. Secondly all that piece or parcel of land situate in the Taru Desert in the Province of Seyidie in the Protectorate more particularly described in the Second Part of the First Schedule hereto. And Thirdly all that piece or parcel of land situate South of Mombasa in the Province of Seyidie in the Protectorate more particularly described in the Third Part of the First Schedule hereto. Provided that the premises hereby demised shall be subject to delimitation by survey in accordance with the provision in that behalf hereinafter contained.

H. C. A.

or thereabouts

2. Except and reserving ^{unto His Majesty his heirs and successors} ~~unto His Majesty his heirs and successors~~ all roads ways waterways and passages in through upon or over the demised premises (but with a right for the Lessees to use the same in common with all other persons having the like right) and excepting and reserving also ^{unto His Majesty his heirs and successors} ~~unto His Majesty his heirs and successors~~ and his and their Lessees all such precious stones mines minerals and mineral oil in or under the demised premises with all such powers of

Exceptions and reservations.

working winning getting and making merchantable the same as are in Clause 20 hereinafter mentioned or referred to And excepting also and reserving unto His Majesty his heirs and successors the waters of any river stream or lake flowing or being in through or upon the demised premises with full liberty and right to use the said excepted waters or any of them or any other waters which may be or be found in or about the demised premises for the supply of water or power for any Government purpose whatsoever or for the purpose of working winning getting and making merchantable any of the mines minerals and mineral oil hereinbefore excepted and for such purpose or purposes to dig or sink such wells or bore holes and to divert stop or dam such streams or watercourses and to make and maintain such power stations pumps watercourses culverts lines of pipes drains reservoirs or other works upon in or through the demised premises as the Governor for the time being of the Protectorate (hereinafter called "the Governor") shall think desirable and from time to time with workmen and others to enter on the demised premises and to repair renew cleanse and enlarge the said power stations pumps wells bore holes watercourses culverts pipes drains reservoirs and other works. And it is hereby agreed that no compensation shall be payable to the Lessees in respect of the liberties and privileges hereby excepted and reserved or in respect of any damage arising from the exercise thereof save as in Clause 20 hereinafter expressly mentioned and save also that the Lessees shall be entitled to such compensation for damage caused by the exercise of the said liberties and privileges to any irrigation works actually constructed by the Lessees and to any part of the demised premises irrigated by means of such works as in case of difference shall be fixed by arbitration as hereinafter provided. TO HOLD the said lands (except as aforesaid) unto the Lessees for the term of 99 years from the 1st day of January 1914 subject save where expressly herein otherwise provided to the provisions of the Crown Lands Ordinance 1902 and to the Rules for the time being in force under the said Ordinance.

Term of Lease

Rents

3. YIELDING AND PAYING therefor in advance payable (save as herein otherwise provided) on the 1st day of January in every year the rents in respect of the premises demised hereinafter set forth and save as herein otherwise provided yielding and paying proportionate amounts in respect of any period less than one year as follows that is to say :-

I. In respect of the premises demised in the First Part of the First Schedule hereto—

(a) Rent at the rate of £50 per annum until such time as the said premises shall be delimited by survey. The first of

such payments (being the sum of £100 the receipt whereof is hereby acknowledged in respect of the years 1914 and 1915) shall be paid on the date of the execution of these presents.

- (b) Thereafter rent at the rate of £1,500 per annum for a period of five years commencing from the date of the approval by the Director of Surveys for the time being to the Government of the Protectorate (which Government is hereinafter referred to as the Government) of the plan of the demised premises.
- (c) Thereafter rent at the rate of £2,000 per annum for and in respect of the residue of the term of 9 years from the 1st day of January 1914.

II. The rent in respect of the premises demised in the Second Part of the First Schedule hereto shall be deemed to be included in the rental specified to be paid for the area set forth in the First Part of the First Schedule hereto and no additional sum shall be demanded or paid in respect thereof.

III. In respect of the premises demised in the Third Part of the First Schedule hereto—

- (a) Rent at the rate of six cents per acre per annum commencing from the date of the approval of the plan by the said Director of Surveys.
- (b) Additional rent at the rate of Rs. 15 per acre per annum in respect of all lands sold sub-leased sub-let or otherwise disposed of by the Lessees for residential or business sites.

Such additional rent shall become due from the date of the execution by the Lessees of the deed purporting to sell sub-lease sub-let or otherwise dispose of such lands.

Provided that if any increased or additional rent shall become payable for the first time on any date other than the 1st day of January a proportionate part thereof down to the end of the year shall be paid on the date on which it so first becomes payable and thereafter the whole annual amount thereof shall be payable in advance on every succeeding 1st day of January.

Governor be necessary for the improvement of communications or for fulfilment of the requirements of persons resident within the demised premises or within areas adjacent thereto.

5. If the Lessees shall make default in the performance of any of the obligations imposed on them by these presents for the development and improvement of the demised premises they shall without prejudice to any other remedies which His Majesty may have hereunder pay to His Majesty as liquidated and ascertained damages and not as a penalty the sum of Rs. 15 for every day in respect of which default is made.

Damages in case of non-development.

? H. Govt

6. And the Lessees hereby covenant in respect of the premises described in the Third Part of the First Schedule hereto that they shall in addition to the survey to be made in accordance with Clause 11 hereof cause to be surveyed to the approval of the Governor and at the Lessees' expense suitable plots for residential and business purposes on the aforesaid demised premises and shall offer the same for sale by auction or sub-lease within a reasonable time of receipt of such notice at an upset price and upon conditions to be mutually agreed between the Lessees and the Governor Provided (a) that the Governor is satisfied that there exists a reasonable demand for such plots; (b) that the Governor is satisfied that such land is not required by the Lessees for the purposes of any harbour railway or wharf scheme in connection with the premises demised in these presents or for the housing of their employees, and (c) that it shall not be competent for the Governor so to call upon the Lessees to perform the obligations hereinbefore in this Section specified after the expiration of fifteen years from the 1st day of January 1914.

Lessees to survey and offer lands in Third Part of First Schedule for residential purposes.

7. And the Lessees hereby covenant in respect of the premises referred to in the Second Part of the First Schedule hereto that they the Lessees will on or before the expiration of five years from the date of these presents select and notify the Governor in writing the locality and position as near as may be possible of the area to be included in the demise under that part of the First Schedule hereto in default of which notification all rights and privileges of the Lessees in relation to such area shall absolutely cease and determine And it is hereby further agreed that the Lessees shall not be entitled to nor shall they receive any abatement in the rents hereby reserved nor any compensation whatsoever either for the rights and privileges so determined or for any delay in the execution of the survey of the premises referred to in this part of the First Schedule hereto.

Lands in Second Part of First Schedule to be selected within five years.



Lands required for Government or Admiralty purposes to be surrendered.

8. And the Lessees hereby covenant in respect of the whole of the premises hereinbefore demised that they will upon receipt of a notice in writing from the Governor so to do surrender at any time all and any lands which may be required for Government or Admiralty purposes without any abatements in the rents hereby reserved and without any compensation for the land so surrendered except that such compensation shall be paid for all works buildings and developments upon the land so surrendered as in the event of a difference shall be settled by arbitration as hereinafter provided.

Lands to be used for agricultural purposes only.

9. The Lessees shall use the said land for the purposes of grazing and agriculture only and for no other purpose whatsoever unless thereto expressly authorized in writing by the Governor in Council. Provided that the Lessees shall subject to the provisions of these presents and for the purpose and in the course of such user have power to do any or all of the following acts or things namely:—

- (a) To make erect alter and maintain any residences factories workshops stores and other buildings wharves railways tramways roads paths dams waterways irrigation works machinery plant and appliances upon the demised premises which may be necessary or expedient for the purpose of any operations authorized under or by virtue of these presents
- (b) To get from the demised lands clay (except china clay), country rock gravel lime sand shell shingle slate and surface salt and to use or dispose of the same whether in the raw or manufactured state.

No precious stones or minerals to be taken.

10. The Lessees will not at any time during the said term use the demised premises for any purposes not authorized by virtue of or under these presents and in particular and without prejudice to the generality of the preceding provisions will not at any time get or remove from the demised premises any precious stones or any ores or minerals or mineral oil except such minerals as are hereinbefore authorised to be gotten by the Lessees.

Survey to be made.

11. A survey of the lands hereby demised or intended so to be shall be made by the Government and the costs thereof paid by the Lessees and until the completion of such survey any question as to whether any land forms part of the land hereby leased shall be referred to the Recorder of Titles for the time being of the Protectorate whose decision shall be final pending the completion of such survey.

The boundaries of the said lands shall be beaconed and mapped in such manner as the said Director of Surveys may deem necessary and all lands excluded in the First Second and Third Parts of the

First Schedule hereto shall be demarcated upon the ground and shall not be included in the survey plans of the premises hereby demised.

Provided that the Lessees may employ surveyors to be approved by the said Director of Surveys and the Lessees at their own cost shall furnish the said Director of Surveys with the originals or true copies of all plans prepared by such surveyors in duplicate one on stout drawing paper and one on tracing linen together with the original field notes calculations and computations and no survey carried out by such surveyor shall be accepted or passed before it has been approved by the said Director of Surveys.

12. The Lessees will during the last ten years of the said term keep in good and substantial repair and condition all residences factories workshops stores and other buildings and all wharves railways tramways roads paths dams waterways irrigation works machinery plant and appliances which shall be in existence upon the demised premises at any time within such period of ten years (except any constructed for the purpose of working any minerals hereby reserved) and will on the determination by any means of the said term deliver up in good order and condition to His Majesty the demised premises and all buildings and all such works and buildings as hereinbefore mentioned with the exception of plant and machinery. Lessees to keep buildings &c. in repair.

13. The Lessees will not assign transfer or otherwise part with the possession of the demised premises or any part thereof otherwise than by sub-lease without the consent in writing of the Governor previously obtained provided that the Lessees shall notify the Governor forthwith of any sub-lease or sub-letting of any portion of the premises demised under the Third Part of the First Schedule hereto. Lessees not to assign without permission.

14. The Lessees will provide at their own expense a competent and suitable resident agent or representative upon the demised premises to whom all notices and directions under these presents may be given. Lessees to provide resident agent.

15. The Lessees shall always be and remain British subjects or a British Company having its principal office in Great Britain and (except with the express permission of the Governor in any particular case) the Lessees' principal representative in the Protectorate and all the Directors of the Lessees if a Company shall always be either natural born British subjects or persons who shall have been naturalized as British subjects by or under an Imperial Act of Parliament or some statute or ordinance of some British Colony or Dependency. Lessees to be British subjects.

Proviso for re-entry in case of abandonment or non-development.

16. If after the 31st day of December 1925 the Lessees shall at any time during the residue of the term of the lease abandon the demised premises or shall totally cease to occupy or shall cease to maintain improvements to the value of £100,000 upon the demised premises then the Governor shall be at liberty (without prejudice to any other rights or powers under these presents to which he may be entitled) to re-enter upon the said demised premises or any portions thereof in the name of the whole and thereupon all rights and privileges conceded to the Lessees by virtue of these presents shall cease and determine.

Lessees to have power to remove plant &c.

17. The Lessees having paid the several rents and moneys payable by them under these presents and observed and performed the covenants and conditions on the part of the Lessees herein contained shall be at liberty at the expiration or sooner determination of the said term or within two calendar months thereafter to remove from the demised premises their fixed and moveable machinery plant and appliances which the Governor shall not have elected to purchase under the provisions of these presents other than station buildings goods-sheds platforms bridges culverts and other permanent buildings or works and the permanent way of railways and tramways (including in the expression permanent way the rails sleepers turntables telegraph and signal posts and the lines and signals thereof). Provided always the Lessees shall make reasonable compensation for all damage done to the demised premises by such removal.

Power to Governor to purchase plant &c.

18. If at the expiration or sooner determination of the said term the Governor shall desire to purchase all or any of the fixed and moveable machinery plant or appliances of the Lessees in or about the demised premises other than such part or parts thereof as is or are excepted in Clause 17 hereof and shall give to the Lessees notice in writing of such desire at or before the expiration or sooner determination of the said term or within one calendar month after the expiration or determination of the same then the machinery plant or appliances specified in such notice shall not be removed by the Lessees from the demised premises but the Governor shall call and the Governor or his nominees shall purchase the machinery plant and appliances so specified at a price to be fixed in case the parties differ by arbitration under the provisions hereinafter contained.

Lessees to furnish information.

19. The Lessees shall render all such information documentary or otherwise facilities and assistance as may from time to time be required by the Governor for carrying into effect the provisions of these presents.

Power to Governor to work minerals.

20. Notwithstanding anything herein or in the said Ordinance contained the Governor may from time to time authorize any person or persons or corporation to prospect search for win work smelt

make merchantable and take away any minerals (including china clay and mineral oil) or precious stones in under or upon the demised premises or any part thereof and to open any mines and to construct sink and maintain in or upon the same or any part thereof all such shafts pits buildings plant machinery works and other conveniences and to carry on in or upon the demised premises or any part thereof all such mining smelting and other operations as may be necessary or expedient for any such purpose as aforesaid but only upon the terms that the said person or persons or corporation shall pay to the Lessees such compensation for any injuries caused to the Lessees or their property by any such acts and operations as aforesaid as in case of difference shall be fixed by arbitration under the provisions hereinafter contained.

21. Notwithstanding anything herein contained the right of access to all existing springs and wells shall be maintained and continued and all natives shall be entitled to exercise on or over any part of the demised premises which in the opinion of the Governor shall for the time being not be actually under cultivation by the Lessees all such rights of collecting firewood hunting taking and snaring fish and game for their own use and not for sale and such other customary rights as in the opinion of the Governor may have been heretofore exercised by natives on or over the demised premises or any part thereof and the demise made by these presents and the interests of the Lessees thereunder shall be subject to all such rights.

Preservation of rights of natives.

22. The receipt of any rent or other moneys by or on the part of the Governor shall not be or be construed as a waiver of any antecedent or then subsisting breach of any of the covenants or agreements on the part of the Lessees herein contained or implied or of any rights or remedies of the Governor by virtue of or in connection with any such breach.

Receipt of rent not to be a waiver of breach of covenant.

23. Any notice to be given under these presents or relating to the demised premises may in addition to any other method for the time being authorized for serving the same be given to the Lessees by leaving the same at their registered offices for the time being in England or with their agent or representative for the time being on the demised premises or by leaving the same for the Lessees at any office on the demised premises and any notice so left shall be deemed to have been given at the time when it was so left.

Notice.

24. Any and every dispute difference or question which may at any time arise between the Governor and the Lessees or any person persons or corporation claiming through or under the Lessees touching

Arbitration Clause.

the construction meaning and 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 the Governor or the Lessees or any such person or corporation as aforesaid shall (except in any case where the same is under provision herein contained to be otherwise settled) be referred to arbitration as provided for in the Arbitration Ordinance 1913 or any Ordinance or Law amending or replacing the same for the time being in force.

Marginal
notes.

25. The marginal notes to these presents are intended for purposes of reference only and do not form part of these presents and shall not be taken into consideration in ascertaining the construction of these presents or of any clause or provision herein contained.

In witness &c.

The First Schedule hereinafter referred to.

THE FIRST PART.

Land situate South of Mombasa in the East Africa Protectorate containing an area not exceeding 250,000 acres within the following boundaries namely:—

ON THE NORTH by a line one mile south of and parallel to the high water mark commencing at Ras Muake Senge and continuing in a generally westerly direction along Port Ritz and the right bank of the Nwachi River.

ON THE EAST by the coast high water mark.

ON THE SOUTH by the Anglo-German boundary.

ON THE WEST by a line joining the northern and southern boundaries at such distance to the west of the eastern boundary as shall include an area not exceeding 250,000 acres and so surveyed that the general direction of this boundary shall so far as possible be parallel to a line drawn from the flagstaff at Shimoni to the lighthouse at Mombasa Island.

The said area shall be determined after excluding all land of the following description viz.:—(a) land at Gazi Shimoni Vanga and other places as may be deemed necessary by the Governor for Government or Admiralty purposes, (b) land already leased or granted, (c) land the subject of what is known as the Despatcher and Macanister Concessions, (d) land privately owned, (e) true forest areas exceeding one square mile in extent, (f) native reserves, (g) mangrove forests.

The said area will be more particularly delineated and described on the plan to be prepared after the survey of the said area has been completed and for the purpose of identification to be signed by the said Director of Surveys and some person on behalf of the Lessees and thereon coloured pink subject as hereinbefore provided.

THE SECOND PART.

An area of land to be selected in accordance with Clause 7 hereof not exceeding 100,000 acres ^{South of the Uganda Railway} ~~between the stations of the Tary Desert and situated to the south of the railway (and lying between the Sambury and Miso-Amb stations of the Uganda Railway.~~

The said area shall be surveyed as far as possible in one rectangular block of which the greatest length shall not exceed twice the greatest breadth. The said area shall be determined after excluding all land of the following description viz. -- (a) native reserves (b) game reserves (c) lands alienated or agreed to be alienated prior to the date upon which the selection of the said area is declared.

Such area will be more particularly delineated and described on the plan to be prepared after the survey of the said area has been completed and for the purpose of identification to be signed by the said Director of Surveys and some person on behalf of the Lessee and thereon coloured blue subject as hereinbefore provided.

THE THIRD PART.

Land South of Mombasa in the East Africa Protectorate being a strip one mile in depth measured inland from the high water mark extending between Ras Muake Senge and the upper end of Port Ritz excluding therefrom all land at present in Government occupation all land required for Admiralty purposes all land already leased or granted by the Government and all land privately owned. The said area will be more particularly delineated and described on the plan to be prepared after the survey of the said area has been completed and for the purpose of identification to be signed by the said Director of Surveys and some person on behalf of the Lessee and thereon coloured green subject as hereinbefore provided.

between the road from Miso and to Tareta & a line drawn as near possible parallel to the said road from the most western point of the Sam-Curn Station buildings on the said Railway.

The Second Schedule hereinafore referred to.

Amount of expenditure and period by which such development shall be completed.

A total of	
£	
40,000	by 31st December 1916.
60,000	" " 1919.
80,000	" " 1922.
100,000	" " 1925.

The Third Schedule hereinbefore referred to.

- Farm buildings and dwelling-houses of all descriptions.
- Fencing.
- Wells.
- Planting trees or live hedges.
- Walls.
- Wells.
- Draining land or reclamation of swamp.
- Road making.
- Bridges.
- Clearing of land for agricultural purposes.
- Laying out and cultivating gardens and nurseries.
- Water boring.
- Water races.
- Sheep or cattle dips.
- Embankments or protective works of any kind.
- Planting of long-lived crops.
- Water tanks.
- Irrigation works.
- Fixed machinery.
- Reservoirs.
- Dams of a permanent nature.
- Railroads tramlines and trolleylines.
- Motor tractors and any form of mechanical traction in permanent use on the demised premises.

