

1924

KENYA

C. O.
54427
20 NOV 24

FROM

DATE

SUTTON OSMANNEY AND OLIVER.

19th November 1924.

FOR CIRCULATION:—

MAGADI SODA CO. RECONSTRUCTION.

Fwds three prints of draft Deed of Surrender, drafted so as to extinguish the rights of the Company under the original Contract as well as under the two leases. States as to further steps necessary.

Mr.

Mr.

Mr.

Asst. U.S. of S.

Perm. U.S. of S.

Part. U.S. of S.

Secretary of State.

Previous Paper:

MINUTES

Mr. Byrde, B. O. ...

Mr. Seal was ... and he & I have since gone through it, with no great understanding

It seems to me that the Special Receiver should come to the matter at once - under the authority of the Court to release and we may be able to get it done when the reconstruction scheme comes before the Court, which may be any day now.

Preambles requires no action, I think.

Of course the Draft must go to the Association later, but reference

*3 DEC 1924
Copy sent to Mr. Deane
3 DEC 1924
Mr. Seal 12.31.
Mr. Seal 12.31.
Mr. Seal 12.31.*

Subsequent Paper

5/4/25

to the O. R. runs to the
the only practical stop was.

Wed. 21.11.14.

Yes I think so.

Only desire to repeat

what I said to Mr. Green that
I am not prepared to accept the
responsibility of settling this
deed - as I do not know enough
about it.

Wetmore says that if he
was not prepared to settle it
he comes to the conveyancing
Council but at present he
has not thought it necessary.

to be.

At 12

22/11

First road city to the O.R.

I'm not sure; but we can
start with the O.R. as we
shall have found him the
deed leaves very shortly we
can make an order of it.

Good

Wed. 22.11.14

at home

see M/5517

SUTTON, OSMANNEY & OLIVER.

E. G. OLIVER.
H. M. OSMANNEY.

TELEGRAPHIC ADDRESS: "OSMANNEY, LONDON."

TELEPHONE: NO. 1259 } LONDON WALL.
NO. 9216 }

C.O.
54427

3 & 4, GREAT WINCHESTER STREET,

LONDON, E.C.2.

20 NOV 24

306

1462/1924.

~~XXXXXXXXXX 2024.~~

Sir,

Margali Soda Company Limited

We beg to hand you ~~herewith~~ ~~the~~ ~~original~~
Deed of Surrender of the interests of the ~~Margali Soda Company~~
Limited. You will observe that ~~the~~ ~~deed~~ ~~has~~ ~~been~~ ~~drafted~~ ~~so~~ ~~as~~
to extinguish the rights of the ~~company~~ ~~under~~ ~~the~~ ~~original~~
Contract as well as under the ~~two~~ ~~leases~~.

A special Resolution of the ~~shareholders~~ ~~will~~ ~~be~~
necessary unless this matter is ~~decided~~ ~~by~~ ~~the~~ ~~officials~~ ~~and~~
to be made in the debenture ~~holders~~ ~~at~~ ~~the~~ ~~15th~~ ~~meeting~~.

The Liquidator will ~~require~~ ~~the~~ ~~signature~~ ~~of~~ ~~the~~ ~~Order~~
the Court and the 6th recital will ~~allow~~ ~~the~~ ~~making~~ ~~of~~ ~~the~~
Order and so may require some ~~modification~~ ~~to~~ ~~the~~ ~~Order~~ ~~in~~ ~~and~~.

We have the pleasure,

Sir,

Your obedient servants,

L. W. Osmanney

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

1/54124/24 K.

18. 11. 24

387

KENYA COLONY AND PROTECTORATE

THE MAGADI SODA COMPANY LIMITED
AND ANOTHER

TO

THE CROWN AGENTS FOR THE COLONIES

Surrender

DATED _____ 192

SUTTON, OMMANNEY & OLIVER,
3 & 4 Great Winchester Street,
London. E.C.2

KENYA COLONY AND PROTECTORATE.

This Indenture made the _____ day of _____ 192_____

Between THE BRITISH TRUSTS ASSOCIATION LIMITED whose registered office is situate at No. 32 Bishopsgate in the City of London (hereinafter called "the Association") of the first part THE MAGADI SODA COMPANY LIMITED in liquidation whose registered office is situate at Nos. 25 & 27 Bishopsgate aforesaid (hereinafter called "the Company") acting by HERBERT EDWARD BURGESS of No. 33 Carey Street W.C.2 in the County of London Senior Official Receiver in Companies Winding-up the Liquidator of the Company (hereinafter called "the Liquidator") of the second part and THE CROWN AGENTS FOR THE COLONIES (hereinafter called "the Crown Agents") acting for and on behalf of The Government of the Kenya Colony and Protectorate of the third part.

Whereas,—

(1) These presents are made supplemental to the following Indentures that is to say,—

- (a) an Indenture (hereinafter called "the Magadi Lease") dated the 12th day of April 1911 and made between the then Crown Agents of the one part and the Company of the other part being a lease to the Company of lands situate at or near Lake Magadi in the said Kenya Colony and Protectorate (then the East Africa Protectorate) with mining rights in respect of all soda and other deposits minerals and precious stones therein for a term of _____ as to mining rights in respect of minerals other than soda and other similar deposits) of 99 years from the date thereof and as to such excepted rights until the 15th day of August 1946 at the royalties and subject to the covenants by the lessee and conditions therein reserved and contained
- (b) an Indenture (hereinafter called "the Railway Contract") dated the 13th day of April 1911 and made between the then Crown Agents of the one part and the Company of the other part being a contract for the construction by the Company of (i) a pier and works at Kilindini and (ii) a railway to Lake Magadi aforesaid and for the grant to the Company of a lease of the said railway when constructed being the Indenture next hereinafter mentioned

- (c) an Indenture (hereinafter called "the Railway Lease") dated the 3rd day of March 1923 and made between the Crown Agents of the one part and the Company of the other part being a lease to the Company of the said railway during such term as the Magadi Lease should be subsisting at the rent and subject to the covenants by the lessee and conditions therein reserved and contained
- (d) an Indenture (hereinafter called "the Trust Deed") dated the 16th day of May 1919 and made between the Company of the one part and the Association of the other part being a trust deed to secure debentures to the aggregate nominal amount of £500,000 then about to be and since in part issued by the Company whereby the Company charged in favour of the Association as and by way of a floating security the whole of its undertaking and property for the time being whatsoever and wheresoever exclusive of any uncalled capital with the payment of all moneys intended to be thereby secured.
- (2) The Railway Lease and the counterpart thereof have been executed but have not yet been exchanged.
- (3) The security constituted by the Trust Deed some time since became enforceable and thereupon the floating charge contained in the Trust Deed crystallised and became a specific charge upon (inter alia) the property hereby surrendered and assigned.
- (4) By an Order of the High Court of Justice (Companies Winding-up) made on the 8th day of April 1924 it was ordered that the Company should be wound up by the Court under the provisions of the Companies (Consolidation) Act 1908 and by the same Order the Liquidator was appointed Liquidator of the Company.
- (5) The Association and the Company acting by the Liquidator have agreed to execute such surrender and assignment and the Crown Agents have agreed to execute such release as is hereinafter contained.
- (6) By a further Order made on the day of 192 in the said Winding-up these presents were approved and the Liquidator was ordered to execute the same.
- (7) These presents have been approved and sanctioned by an Extraordinary Resolution of the holders of the debentures secured

by the Trust Deed duly passed at a meeting of such debenture holders duly convened and held in accordance with the provisions of the Trust Deed on the day of 192

Now this Indenture witnesseth as follows:—

1.—In pursuance of the said Agreement and in consideration of the release hereinafter contained the Association as Mortgagee and according to its estate and interest in exercise of the power in this behalf conferred by Clause 16 of the Trust Deed and of all other powers it hereunto enabling and at the request of the Company hereby surrenders and assigns and the Company as Beneficial Owner acting by the Liquidator hereby surrenders and assigns unto the Crown Agents

First all the premises comprised in and demised by the Magadi Lease and the Railway Lease respectively

AND SECONDLY all the right interest and benefit of the Company under the Railway Contract

To the intent that the terms granted by the Magadi Lease and the Railway Lease shall forthwith merge and be extinguished in the fee simple and inheritance and that the Railway Contract and all rights thereunder shall be at an end and determined

2.—In further pursuance of the said Agreement and in consideration of the surrender and assignment hereinbefore made the Crown Agents hereby release the Company and the Liquidator from all claims and demands under the Magadi Lease the Railway Contract and the Railway Lease or any of them.

3.—The Liquidator for himself his heirs executors and administrators hereby covenants with the Crown Agents that he has not at any time heretofore done or knowingly omitted or suffered or been party or privy to anything whereby or by means whereof the premises hereinbefore assured or any part thereof are is or may be incumbered or affected in any manner whatsoever or whereby he is in anywise prevented from assuring the same premises or any part thereof in manner aforesaid.

In Witness &c.

by the Trust Deed duly read at a meeting of such debenture holders duly convened and in accordance with the provisions of the Trust Deed on the _____ day of _____ 192 _____

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In Witness &c