

EAST AFR. PROT.

21190

C.O.
21190
REC.
7 MAY 15

John O'Malley
& Kendall

1915

6 May

Last previous Paper.

Gov
20-19

Lease to E. African Estates Ltd.

Sends further review of Lease of lands in
Scydis Province, & Lease of Bacon Factory.
Understands that for has been considered with
regard to a few outstanding points, & suggests
these points be settled before draft is submitted to Gov.
Schnitzer

W. T. Tennyson Sir. G. Fiddes.
W. Reed

P.L. see on Gov 12/255

W.T. 7.5.15

CB. 8/5/15

W. J. R.

8/12/15

Ans'd 11 May 15 Gov 255

Next subsequent Paper

Gov
21155

TELEGRAPHIC ADDRESS
"OMMANEY LONDON"

TELEPHONE NO 1220 LONDON WALL

3 & 4, GREAT WINCHESTER

LONDON, W.C.2

19023/1915

6th May 1915

REC.
RECEIVED

Sir,

EAST AFRICA PROTECTORATE.

In further reference to your letter of ultimo, we enclose you herewith for your consideration further copies in duplicate of the Lease of lands in Seyidie Province and the Lease of the Bacon Factory, as issued in accordance with instructions received at our interview with Mr. Tennyson on the 4th instant.

As we understand that the Governor has been communicated with in reference to a few outstanding points and inasmuch as the Solicitors for the East African Estates Limited have informed us that the Board Meeting fixed for today has been postponed, we think it advisable that these points should be settled before the drafts are submitted to the Company's Solicitors.

We are, Sir,

Your obedient Servants,

John O. ...

The Under-Secretary of State for the Colonies

EAST AFRICA PROTECTORATE.

Lease

OF

LANDS SITUATE AT LIMURU IN THE EAST AFRICA
PROTECTORATE.

DATED

1915.

SUTTON, OSMANNEY & BENTALL,

3 & 4, Great Winchester Street,

London, E.C.

Grant

1. Now this Indenture witnesseth that in consideration of the surrender of the said former Lease of the hereditaments hereby demised and other hereditaments dated the 20th day of April 1910 and of the rent and reservations hereinafter reserved and of the covenants by the Lessees hereinafter contained the Crown Agents hereby demise unto the Lessees All and singular the lands hereditaments and property situate in the Protectorate more particularly described in the Schedule hereto.

Exceptions
and reserva-
tions

2. Except and reserving out of the demise hereby made First : All and singular the mines minerals mineral oil and precious stones within or under the demised premises together with full liberty and power to work and get the same and such other rights and privileges over or in respect of the demised premises as are in these presents reserved and contained And Secondly : The waters of any river or lake And except and reserving unto the Crown Agents and the Governor full liberty and right to use the 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 and for this purpose to dig or sink such wells and bore-holes and to divert stop or dam such streams or watercourses and to make and maintain such watercourses culverts lines of pipes drains or reservoirs in or through the demised premises as the Crown Agents or the Governor may think desirable And also reserving liberty as aforesaid from time to time with workmen and others to enter on the demised premises and to repair renew cleanse enlarge and extend the said wells bore-holes watercourses culverts pipes drains and reservoirs 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 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 some person to be appointed by the Governor for that purpose and the decision of such person shall be final. TO HOLD the said lands hereditaments and premises (except as aforesaid) unto the Lessees for the term of 99 years to be computed from the 9th day of October 1908.

Term of
lease

Rent

3. YIELDING AND PAYING therefor the yearly rent of £8 6s. 8d. such payment of rent to be payable in advance and made on the 1st day of January in every year.

4. The provisions of these presents and the rights and interests of the Lessees thereunder shall be subject in all respects to the Ordinances Orders Enactments Rules and Regulations which now are or may from time to time hereafter be in force in the Protectorate with respect to the tenure or occupation of lands or the production collection or exportation of timber or other produce and the Lessees will during the continuance of the said term duly comply with all such Ordinances Orders Enactments Rules and Regulations And in particular will perform and observe fulfil and comply with all the covenants clauses and provisions relating to Leases to compensation and the general provisions implied on the part of the Lessees by the Crown Lands Ordinance 1902 or all such covenants clauses and provisions as would be implied on their part if these presents were a Lease under such Ordinance in like manner as if the said covenants clauses and provisions were set forth in these presents. Furthermore these presents shall operate and take effect as a Lease under the said Ordinance for the special purposes hereinafter mentioned under the said Ordinance within the meaning of the said Ordinance. And the covenants on the part of the Governor to be by the said Ordinance implied shall take effect as covenants by the Crown Agents on behalf of the Governor

To observe
Ordinances
etc and in
particular
covenants
implied by
Crown Lands
Ordinance
1902.

5. Subject to the provisions of these presents the Lessees shall work and use the said demised premises for the breeding ^{Purposes for which the} raising and ^{lands may be} keeping of swine and other cattle. Provided always that the Lessees shall subject to the provisions of these presents and for the purpose and in the course of such working and user have power to do all or any of the following acts and things that is to say :—

- (i.) To breed raise and keep swine and other cattle previously approved in writing by the Governor.
- (ii.) To establish and maintain upon the demised premises a suitable Bacon Factory with all proper machinery and appliances.
- (iii.) To plant grow cultivate and crop in accordance with the provisions of these presents cereal leguminous or other crops to be used as fodder or litter for the said swine or other animals.
- (iv.) Subject to the consent of the Governor to utilise for the purposes of the demised premises or any produce thereof for motive power irrigation and for all domestic purposes the waters of any lake or river within the demised premises and to take use and enjoy such quantity of the water of any such lake or river as the Governor shall from time to time in writing allow and to return to the said lake or river any surplus thereof subject to the provisions to Clauses 8 and 9 of these presents and to

any Ordinances Orders Rules or Regulations relating to the
waters of streams from time to time in force in the
Protectorate.

(v.) To make erect alter and maintain any railways tramways
roads paths dams waterways irrigation works buildings
plant machinery and other works which may be necessary
or expedient for the purposes of any operations authorised
under or by virtue of these presents and which shall have
been previously approved in writing by the Governor.

(vi.) To get from such parts of the demised premises as shall
have been previously approved by the Governor such
stone clay (except china clay) sand and gravel as may be
required for the purposes of any such railways tramways
or roads buildings or works as aforesaid.

(vii.) To carry out and do in or upon the demised premises any
other operations acts and things which may in the opinion
of the Governor be incidental or subsidiary to any of
the operations heretofore expressly authorised and which
shall have been previously approved in writing by him.

The Lessees shall also subject to the provisions of these presents
but without being restricted to the purpose and course of such working
and user as aforesaid have power to do any of the following acts and
things that is to say:

(viii.) To exercise and enjoy all rights with regard to timber
upon the demised premises subject nevertheless to the
provisions of the Crown Lands Ordinance 1902 and any
other Ordinances Orders Enactments Rules and Regulations
in that behalf for the time being in force in the Protectorate.

(ix.) To erect alter and maintain upon the demised premises
buildings for any purpose whatsoever subject nevertheless
to the previous approval in writing of the Governor.

Not to use
lands for
unauthorised
purposes.

6. The Lessees will not at any time during the said term use
the demised premises for any purposes not authorised under or by
virtue of these presents and in particular and without prejudice to the
generality of the preceding provisions the Lessees 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 stone clay sand and
gravel as are heretofore authorised to be gotten by the Lessees.

7. The Lessees will not at any time during the said term without the previous consent in writing of the Governor occupy or otherwise interfere with any lands which shall for the time being be occupied or cultivated by any natives or in which natives have rights and the Lessees will conduct all their operations under these presents in such a way as to cause the least possible annoyance to or interference with any natives.

Not to interfere with lands occupied by natives.

8. The Lessees will keep so much of the demised premises as shall be occupied by them and all buildings erected or to be erected thereon in a proper sanitary condition and will not foul any river spring or watercourse in or upon the demised premises and will not without the previous consent in writing of the Governor divert dam obstruct or otherwise interfere with any river spring or watercourse in or upon the demised premises and will at all times during the said term permit all natives and other persons to have access to and use for all such purposes as in the opinion of the Governor may be reasonable any dam reservoir or other water in or upon the demised premises.

Sanitary provisions and against fouling or interfering with water.

9. In case the Lessees shall during the continuance of the said term find it necessary or desirable to carry out or prosecute any works or operations for the improvement of or for utilising any lake river or stream for motive power or irrigation they will give to the Governor due notice of their intention to carry out such works or operations together with such details drawings plans and sections of the proposed works as may explain the same or he may require. And the Lessees will not proceed with or execute any such works or operations unless and until the same shall have been approved by the Governor in writing and in case the same shall be approved will carry out and exercise such works and operations subject in all respects to the directions of the Governor and under the supervision of such person or persons as he may appoint for that purpose and to his approval and satisfaction.

As to improvement or use of lakes and rivers.

10. The Lessees will at all times during the said term maintain and keep the Bacon factory erected in accordance with provisions of the said Lease dated the 20th day of April 1910 together with all machinery appliances outbuildings offices roads tramways and other means of access and all additions and improvements thereto in good and substantial repair and condition and will on the determination by any means of the said term deliver up the same to the Governor in the state of order and condition in which the same ought to be under these presents.

Lessees to maintain and keep Bacon factory in repair.

11. The Lessees will subject to the provisions of Clause 10 hereof during the last 10 years of the said term keep in good and substantial repair and condition all buildings roads tramways and railways which shall be in existence upon the demised premises at any time within

To keep in repair and deliver up possession.

such period of 10 years and the Lessees will on the determination by any means of the said term deliver up to the Governor the demised premises and (subject to the provisions in these presents contained) all buildings roads tramways railways and machinery thereon in the state of order and condition in which the same ought to be under these presents.

Not to assign
or without
consent.

12. The Lessees will not assign underlet or part with the possession of the demised premises or any part thereof without the consent in writing of the Governor or the Crown Agents previously obtained who may (without prejudice to his or their right to refuse such consent on any other ground) require as a condition of giving such consent the assignee or assignees at his or their expense to execute a deed of covenant to observe and perform the covenants and conditions on the part of the Lessees in these presents contained or such other document as the Governor or the Crown Agents may require for rendering such assignee or assignees liable to perform and observe the said covenants and conditions in like manner as though he or they had been parties to these presents in place of the Lessees or as nearly so as circumstances will admit.

To keep agent
on property

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

No arms or
ammunition
to be sold

14. The Lessees will not at any time during the continuance of the said term sell give barter or otherwise dispose of any arms or ammunition of any description to any native or natives or permit or suffer their agents or employees or any of them to make any such sale gift barter or other disposition.

No spirituous
liquors to be
sold to
natives

15. The Lessees will not at any time during the continuance of the said term sell give barter or otherwise dispose of any spirituous liquors to any native or natives or permit or suffer their agents or employees or any of them to make any such sale gift barter or disposition. And the Lessees their agents and employees will not import or authorise the importation of any spirituous liquors into the Protectorate or any part thereof otherwise than for the use of European agents or employees of the Lessees and subject to such provisions as may for the time being in force in the Protectorate in respect of such spirituous liquors and the importation thereof.

Lessees to be
British
Company

16. The Lessees will always be and remain a British Company and shall have their principal office in Great Britain and (except with the express permission of the Crown Agents or the Governor in any particular case) the Lessees principal representative in the Colony and all the Directors of the Lessees Company shall always be either

natural born British subjects or persons who shall have been naturalised as British subjects by or under an Imperial Act of Parliament or some Statute or Ordinance of some British Colony or Dependency.

17. If the Lessees shall at any time during the said term abandon or totally cease to occupy the demised premises or shall fail to comply with the provisions of Clauses 10 and 11 hereof 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 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. Proviso for re-entry in case of abandonment etc

18. 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 ~~statute~~ 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 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. Lessees to have power to remove plant &c.

19. 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 18 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 Lessees shall sell and the Governor or his nominee 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. Power to Governor to purchase plant &c.

20. The Lessees shall render all such information documentary or otherwise facilitating and assistance as may from time to time be Lessees to furnish information.

required by the Governor for carrying into effect the provisions of these presents.

Power to
Governor to
work
minerals.

21. Notwithstanding anything herein or in the said Ordinances 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) ores 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.

Having
customary
rights of
natives.

22. Notwithstanding anything herein contained 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 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 interest of the Lessees thereunder shall be subject to all such rights.

Receipt of
rent not to
waive breach
of covenant.

23. The receipt of any rent or other moneys by or on the part of the Crown Agents or 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 Crown Agents or of the Governor by virtue of or in connection with any such breach.

Power to
Crown Agents
to delegate or
transfer
powers.

24. The Crown Agents may from time to time delegate to any person persons or corporation all or any of the powers or discretions by these presents vested in or given or reserved to the Crown Agents or may by writing under their hands transfer to any other person persons or corporation any of the powers or discretions given to or vested in the Crown Agents by these presents and such delegation or transfer may be made to take effect for a fixed or determinable period or for the further order of the Crown Agents and with and subject to such authorities and restrictions or absolutely and in all respects in such manner as the Crown Agents shall from time to time determine.

25. 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 authorised for serving the same be given to the Lessees by leaving the same at their registered office 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 or building on the demised premises and any notice so left shall be deemed to have been given at the time when it was so left.

26. Every notice or other document to be made or executed on behalf of the Crown Agents under these presents or relating to the demised premises shall be sufficiently made and executed if made or executed by one of the Crown Agents and every such notice or document to be made or executed on behalf of the Governor shall be sufficiently made or executed if made or executed by the Governor for the time being.

As to notices
by Crown
Agents and
Governor.

27. Nothing herein contained shall impose any personal liability on the Crown Agents the Governor or any person persons or corporation acting under the authority of the Crown Agents or the Governor.

Crown Agents
and Governor
not to be
personally
liable.

28. Any and every dispute difference or question which may at any time arise between the Crown Agents or the Governor on the one hand and the Lessees or any person persons or corporation claiming through or under the Lessees on the other hand touching 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 Crown Agents or the Governor or the Lessees or any such person or corporation as aforesaid shall (except in any case where the same is under any 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.

Arbitration.

29. The Lessees shall on the execution of this Lease pay to the Crown Agents the sum payable by the Crown Agents to their Solicitors for and in respect of their costs charges and expenses in and about the negotiation preparation printing and approval of this Lease.

30. And it is hereby agreed and declared that the marginal notes to these presents are intended for purposes of reference only and shall not be taken into consideration in ascertaining the construction of these presents or any clause or provision thereof.

Marginal
notes.

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

The Schedule hereinbefore referred to.

A piece of land situate at Limuru in the East Africa Protectorate aforesaid containing an area not exceeding 2,000 acres which said premises are more particularly delineated and described in the plan annexed to these presents and thereon coloured yellow subject as hereinbefore provided.

EAST AFRICA PROTECTORATE

21190

REC.
REG. 7 MAY 15

See further
Verbal amendments
on copy marked X
below C6

Lease

OF

LANDS IN THE SEYIDIE PROVINCE IN THE EAST
AFRICA PROTECTORATE.

DATED

1915

LONDON, ORIENTAL & AFRICAN CO.

10, ABchurch Lane, E.C. 4, London, E.C. 4, England

EAST AFRICA PROTECTORATE.

Lease

OF

LANDS IN THE SEYIDIE PROVINCE IN THE EAST
AFRICA PROTECTORATE.

DATED

1915

STATION, OMMAMNEY & RENDALL,

3 & 4, Great Winchester Street,

London, E.C.

East Africa Protectorate.

This Indenture made this 10th day of 1915

Between SIR REGINALD LAURENCE INTROBUS K.C.M.G. C.B. MAJOR SIR MAURICE ALEXANDER CAMERON K.C.M.G. late of His Majesty's Corps of Royal Engineers and SIR WILLIAM HEFORTH MERCER K.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" which expression shall include where the context so admits the Crown Agents for the Colonies for the time being or their successors in title; acting for and on behalf of THE GOVERNOR OF THE EAST AFRICA PROTECTORATE hereinafter referred to as "the Governor" 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 (hereafter referred to as "the Lessees" which expression shall include their successors and permitted assigns where the context so admits) of the other part

Witnesseth that in consideration of the surrender of a former Lease of the hereinafter hereby demised and other hereinafter dated the 20th day of April 1910 and made between the Crown Agents 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 hereinafter contained or implied by virtue of the provisions of the Crown Lands Ordinance 1902 the Crown Agents 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.

2. Except and reserving out of the demise hereby made Exceptions and all roads ways waterways and passages in through upon or reservations.

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 unto the Crown Agents and the Governor and their and his Lessees all such precious stones mines minerals and mineral oil in or under the demised premises with all such powers of working winning getting and making merchantable the same as are in Clause 20 hereinafter mentioned or referred to And excepting also and reserving unto the Crown Agents and the Governor 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 said 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 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 99 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.

Lessees to improve and develop the lands.

4. (I.) And the Lessees hereby covenant with the Crown Agents that they the Lessees and/or their Sub-Lessees and permitted assigns will improve and develop the demised premises up to and by the expenditure of the sums set out in the Second Schedule hereto and within the periods stated in that Schedule. The said expenditure shall be to the satisfaction of the Governor or such official as he shall appoint and shall be confined to those matters and things set out in the Third Schedule hereto. In ascertaining the value of such development the following expenditure shall not be included viz. (a) the General Manager's salary except when such General Manager is permanently resident in the Protectorate and (b) the expenses and salaries in connection with any Board of Directors and a London office but all expenditure incurred (subject as hereinbefore provided in sub-Sections (a) and (b) of this Section) on the premises hereinbefore demised up to and including the date of commencement of these presents shall be included in ascertaining the value of such development.

(II.) Provided that if at any time during the periods limited in the Second Schedule hereto there shall occur a shortage of labour or some act of God likely to act detrimentally to the Lessees in the fulfilment of their obligations in respect of improvement and development they the Lessees shall immediately notify the Governor in writing and the Governor may if after due inquiry he is satisfied that such shortage of labour has arisen from causes beyond the control of the Lessees and has prevented the Lessees from carrying out their said obligations or that such act of God has prevented the Lessees from carrying out their said obligations grant a certificate of exemption for such period as he shall deem just and the period granted in such certificate shall be added to the periods specified in the Second Schedule hereto.

(III.) The Lessees will keep proper books and accounts for the purpose of showing all expenditure by them pursuant to this Clause and will at all times permit the Governor or such person as he may appoint to inspect the same and to take copies thereof and to make extracts therefrom as he shall think fit and further will on receipt of three calendar months' notice in writing from the Governor so to do supply all vouchers certifying such expenditure.

(IV.) The Lessees will at all times permit all officers of the Government to enter upon and inspect the demised premises and all improvements works and buildings which may be in or upon the same and to have communications with all persons resident therein and will in like manner permit the entry of engineers surveyors and other servants of the Government who may have occasion to take levels or make any other form of preliminary observation in connexion with the inception of any works which may in the opinion of the

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 the Crown Agents or the Governor may have hereunder pay to the Governor 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

6. And the Lessees hereby covenant with the Crown Agents in respect of the premises described in the Third Part of the First Schedule hereto that they the Lessees on receipt of a notice in writing from the Governor so to do 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 connexion 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 with the Crown Agents 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 that part of the First Schedule hereto. Lands in Second Part of First Schedule to be selected within five years

Lands
reserved for
Government
or Admiralty
purposes shall
be reserved.

8. And the Lessees hereby covenant with the Crown Agents in respect of the whole of the premises herebefore 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. Provided that the Lessees shall subject to the provisions of these presents and subject to the rights of all persons holding land ^{adjoining} the demised premises to ^{an undisturbed flow} ~~an undisturbed flow~~ of water from any river stream or lake flowing or being in through of upon the demised premises and for the purpose and ^{as far as is necessary in discharge of} 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 buildings 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 or ores 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 in the determination by any means of the said term deliver up in good order and condition the demised premises and all buildings and all such works and buildings as hereinafter mentioned with the exception of plant and machinery.

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

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.

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 Crown Agents or 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.

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 or totally cease to occupy the demised premises 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 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 Lessees shall sell 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 Crown Agents or the Governor for carrying into effect the provisions of these presents.

Power to
Governor to
seek
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 and work any

make merchantable and take away any minerals (including china clay and mineral oil) ores 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.

22. The receipt of any rent or other moneys by or on the part of the Crown Agents or 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 Crown Agents or of the Governor by virtue of or in connection with any such breach.

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.

24. Every notice or other document to be made or executed on behalf of the Crown Agents under these presents or relating to the demised premises shall be sufficiently made and executed if made or executed by one of the Crown Agents and every such notice or document to be made or executed on behalf of the Governor shall be

sufficiently made or executed if made or executed by the Governor for the time being.

Power to
Crown Agents
to delegate or
transfer
powers.

25. The Crown Agents may from time to time delegate to any person persons or corporation all or any of the powers or discretions by these presents vested in or given or reserved to the Crown Agents or may by writing under their hands transfer to any other person persons or corporation all or any of the powers or discretions given to or vested in the Governor by these presents and such delegation or transfer may be made to take effect for a fixed or determinable period or till further order by the Crown Agents and with and subject to such authorities and limitations or absolutely and in all respects in such manner as the Crown Agents shall from time to time determine.

Crown Agents
and Governor
not to be
personally
liable

26. Nothing herein contained shall impose any personal liability on the Crown Agents or the Governor or any person persons or corporation acting under the authority of the Crown Agents or the Governor.

Arbitration
Clause

27. Any and every dispute difference or question which may at any time arise between the Crown Agents or the Governor on the one hand and the Lessees or any person persons or corporation claiming through or under the Lessees on the other hand touching 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 Crown Agents or 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.

work

28. The Lessees shall on the execution of this lease pay to the Crown Agents the sum payable by the Crown Agents to their Solicitors for and in respect of their costs charges and expenses in and about the negotiation preparation printing and approval of this lease.

Marginal
notes.

29. 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 hereinbefore 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 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 Diespecker and Macallister 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 within the area known as the Taru Desert and situated to the south of the railway and lying between the Samburu and Molo-Andi 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 Lessees 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 Songe and the upper end of Port Rita 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 Lessees and thereon coloured green subject as hereinbefore provided.

The Second Schedule hereinbefore 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.
Water furrows.
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 trolleyhines.
Motor tractors and any form of mechanical traction in permanent use on the demised premises.

EAST AFRICA PROTECTORATE.

21190

REC.
REC. 7 MAY 15

See also
 also 20 lines
 25 P. Schedule wrong
 Lease

OF

LANDS IN THE SEYIDIE PROVINCE IN THE EAST
 AFRICA PROTECTORATE.

DATED

1915

SUTTON, CHAMNEY & RENDALL,

3 & 4, Great Winchester Street,

London, E.C.

EAST AFRICA PROTECTORATE.

Lease

OF

LANDS IN THE SEYIDIE PROVINCE IN THE EAST
AFRICA PROTECTORATE.

DATED

1915

SUTTON, OMMANNEY & RUSSELL,

5 & 6, Great Winchester Street,

London, E.C.

East Africa Protectorate.

This Indenture made this day of 1915

Between SIR REGINALD LAURENCE ANTROBUS K.C.M.G. C.B. MAJOR SIR MAURICE ALEXANDER CAMEON K.C.M.G. late of His Majesty's Corps of Royal Engineers and SIR WILLIAM HEFORTH MERCER K.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" which expression shall include where the context so admits the Crown Agents for the Colonies for the time being or their successors in title acting for and on behalf of THE GOVERNOR OF THE EAST AFRICA PROTECTORATE hereinafter referred to as "the Governor" 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

Witnesseth that in consideration of the surrender of a former Lease of the hereditaments hereby demised and other hereinafter stated the 20th day of April 1910 and made between the Crown Agents 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 hereinafter contained or implied by virtue of the provisions of the Crown Lands Ordinance 1902 the Crown Agents 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.

2. Except and reserving out of the demise hereby made ^{Exceptions} all roads ways waterways and passages in through upon or ^{and} reservations.

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 unto the Crown Agents and the Governor and their and his Lessees all such precious stones mines minerals and mineral oil in or under the demised premises with all such powers of working winning getting and making merchantable the same as are in Clause 20 hereinafter mentioned or referred to. And excepting also and reserving unto the Crown Agents and the Governor 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 work upon in or through the demised premises as 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.

Form 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 99 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.

Lessee to
improve and
develop the
land

4. (I.) And the Lessees hereby covenant with the Crown Agents that they the Lessees and/or their Sub-Lessees and permitted assigns will improve and develop the demised premises up to and by the expenditure of the sums set out in the Second Schedule hereto and within the periods stated in that Schedule. The said expenditure shall be to the satisfaction of the Governor or such official as he shall appoint and shall be confined to those matters and things set out in the Third Schedule hereto. In ascertaining the value of such development the following expenditure shall not be included viz. (a) the General Manager's salary except when such General Manager is permanently resident in the Protectorate and (b) the expenses and salaries in connection with any Board of Directors and a London office but all expenditure incurred (subject as hereinbefore provided in sub-Sections (a) and (b) of this Section) on the premises hereinbefore demised up to and including the date of commencement of these covenants shall be included in ascertaining the value of such development.

(II.) Provided that if at any time during the periods limited in the Second Schedule hereto there shall occur a shortage of labour or some act of God likely to act detrimentally to the Lessees in the fulfilment of their obligations in respect of improvement and development they the Lessees shall immediately notify the Governor in writing and the Governor may if after due inquiry he is satisfied that such shortage of labour has arisen from causes beyond the control of the Lessees and has prevented the Lessees from carrying out their said obligations or that such act of God has prevented the Lessees from carrying out their said obligations grant a certificate of exemption for such period as he shall deem just and the period granted in such certificate shall be added to the periods specified in the Second Schedule hereto.

(III.) The Lessees will keep proper books and accounts for the purpose of showing all expenditure by them pursuant to this Clause and will at all times permit the Governor or such person as he may appoint to inspect the same and to take copies thereof and to make extracts therefrom as he shall think fit and further will on receipt of three calendar months' notice in writing from the Governor so to do supply all vouchers certifying such expenditure.

(IV.) The Lessees will at all times permit all officers of the Government to enter upon and inspect the demised premises and all improvements works and buildings which may be in or upon the same and to have communications with all persons resident therein and will in like manner permit the entry of engineers surveyors and other servants of the Government who may have occasion to take levels or make any other form of preliminary observation in connexion with the inception of any works which may in the opinion of the

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 the Crown Agents or the Governor may have hereunder, pay to the Governor 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.

6. And the Lessees hereby covenant with the Crown Agents in respect of the premises described in the Third Part of the First Schedule hereto that they the Lessees on receipt of a notice in writing from the Governor so to do 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 connexion 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.

7. And the Lessees hereby covenant with the Crown Agents 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 that part of the First Schedule hereto.

Lands
required for
Government
or Admiralty
purposes to be
surrendered.

8. And the Lessees hereby covenant with the Crown Agents 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. Provided that the Lessees shall subject to the provisions of these presents and subject to the rights of ^{the Crown or any} person holding land ^{above a certain} ~~the demised premises to~~ ^{an unalienated and unincumbered right} of water from any river stream or flowing or being in through or upon the demised premises 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 soil 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 ^{clay rock gravel lime sand shell} ~~minerals or ore~~ as are hereinbefore authorized 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.

shall be
State &
surface
such

The boundaries of the said lands shall be measured 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 ^{Lessees to} ^{keep buildings} ^{in repair} 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 ^{to the Governor} ^{in good order and condition} the demised premises and all buildings and all such works and ^{machinery plant and appliances} ^{as hereinbefore mentioned} with the exception of plant and machinery ^{to the risk of order} ^{which the Lessees ought to be under their present}.

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 or the Crown Agents previously obtained provided that the Lessees shall notify the Governor or the Crown Agents 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 Crown Agents or 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 or totally cease to occupy the demised premises 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.

Lessees to
be removed
purchase
same &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 Lessees shall sell 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 Crown Agents or 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) ores 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 catching 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 Crown Agents or 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 Crown Agents or of the Governor by virtue of or in connection with any such breach.

Receipt of
rent not to be
a waiver of
breaches 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. Every notice or other document to be made or executed on behalf of the Crown Agents under these presents or relating to the demised premises shall be sufficiently made and executed if made or executed by one of the Crown Agents and every such notice or document to be made or executed on behalf of the Governor shall be

As to notices
by Crown
Agents and
Governor

sufficiently made or executed if made or executed by the Governor for the time being.

Power to
Crown Agents
to delegate or
transfer
powers.

25. The Crown Agents may from time to time delegate to any person persons or corporation all or any of the powers or discretions by these presents vested in or given or reserved to the Crown Agents or may by writing under their hands transfer to any other person persons or corporation all or any of the powers or discretions given to or vested in the Governor by these presents and such delegation or transfer may be made to take effect for a fixed or determinable period or till further order by the Crown Agents and with and subject to such authorities and limitations or absolutely and in all respects in such manner as the Crown Agents shall from time to time determine.

Crown Agents
and Governor
not to be
personally
liable

26. Nothing herein contained shall impose any personal liability on the Crown Agents or the Governor or any person persons or corporation acting under the authority of the Crown Agents or the Governor.

Arbitration
clause

27. Any and every dispute difference or question which may at any time arise between the Crown Agents or the Governor on the one hand and the Lessees or any person persons or corporation claiming through or under the Lessees on the other hand touching 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 Crown Agents or 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.

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28. The Lessees shall on the execution of this lease pay to the Crown Agents the sum payable by the Crown Agents to their Solicitors for and in respect of their costs charges and expenses in and about the negotiation preparation printing and approval of this lease.

Marginal
notes.

29. 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 hereinafore 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 Mwaké Senge and continuing in a generally westerly direction along Port Ritz and the right bank of the Nwacha 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 Diespöcker and Macallister 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 Survey 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 road from the area known as the} ~~within the area known as the~~ ^{the road from Mt. Andei to Kavuta} ~~Taru Desert and situated to the south of the railway and lying between the Samburu and Mito Andei station of the Uganda Railway.~~ ^{a line drawn on nearly as possible for a road from the most westerly point of}

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 Lessees 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 Muako Denge 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 Lessees and thereon coloured green subject as hereinbefore provided.

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	1918.	
60,000	"	"	1919.
80,000	"	"	1922.
100,000	"	"	1925.

The Third Schedule hereinbefore referred to.

Farm buildings and dwelling-houses of all descriptions.

Fencing.

Water furrows.

Planting trees or live hedges.

Walls.

Wells.

Draining land or reclamation of swamp.

Road making.

Bridges.

Clearing of land for agricultural purpose.

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.