THIS AGREEMENT made and entered into on this 24 day of May 1938, by and between George L. Scott, hereinafter called "Lessor," party of the first part and Alabama Carbon Dioxide Ice, Inc., a corporation, hereinafter called "Lessee" party of the other part, WITNESSETH

Whereas, the Lessor, joined by Annie W Scott, his wife, did convey to the Lessee by deed dated the 22nd day of June, 1937, and recorded in the office of the Judge of Probate of Shelby County, Alabama, the parcel of land hereinafter described (hereinafter called "demised premises") and did therein grant to it certain rights, privileges and easements therein described, and the Lessor and the Lessee did enter into an agreement bearing said date and delivered contemporaneously with said deed, which provides, among other things, for the erection, maintenance and operation by the Lessee on said demised premises of a plant (hereinafter called "dioxide plant") for the manufacture of carbon dioxide and other products by the Lessee from the waste or exhaust gases from the three lime kilns of the Lessor situated on the lands of the Lessor adjoining said demised premises, all upon the terms, conditions and coverants in said agreement set forth; and

Whereas, the Lessee duly erected on said demised premises the said dioxide plant in strict accordance with its agreement so to do and has been operating the same with gases produced by or resulting from the operation by the Lessor of said three lime kilns, one or more of them, and transported thereform to saiddioxide plant by means of pipes and other facilities, which dioxide plant, and all buildings, structures, machinery, equipment, appliances, pipe lines, facilities and other property erected, installed or placed by the Lessee on said demised premises and on other lands of the Lessor, except the covers on two of said lime kilns, have been at all times and are now personal property owned solely by the Lessee; and

Whereas, the Lessee has fully performed to the date hereof all the terms, conditions and covenants on its part in said deed and said agreement contained; and

Whereas, the parties, in consideration of the execution of this agreement and the benefits to accrue to them thereform, have contemporaneously herewith cancelled the said former agreement dated June 22n 1937, and the Lessee Contemporaneously herewith has reconveyed to the Lessor the said demised premises and all the rights, privileges and easements granted to the Lessee by the Lessor;

Now, Therefore, for the aforesaid considerations and the mutual covenants and agreements herein contained and the benefits to accrue to the parties hereunder, it is mutually agreed by the parties as follows:

1. The Lessor does hereby demise and let unto the Lessee for and during the term of twenty years beginning on the date hereof and ending on the 24th day of May, 1958, the following described parcel of land, situated in the SW_4^1 of the SE_4^1 of Section 35, Township 20 South, Range 3 West, in Shelby County, Alabama, to-wit:

Beginning at the Northeast corner of Sec. 35, Township 20 South, Range 3 West; thence South along the East boundary of Section 35, 3960 feet to a point, said point being the Northeast corner of the Southeast quarter of the Southeast quarter (SE\frac{1}{4}) of Section 35; thence West along the said Quarter Section line 1760 feet to a point 8 feet West of the center line of side track No. 65-B of the Louisville & Nashville Rail-road Company; thence in a southerly direction 8 feet West of and parallel to the center line of said side track 150 feet, more or less, to a point, said point being hereinafter referred to as point of beginning; thence in a southerly direction 8 feet West of and parallel to the center line of said side track 200 feet to a point; thence West 235 feet to a point; thence North 200 feet to a point; thence East 165 feet to a point of beginning, containing 0.92 acres, more or less.

And the Lessor, for said considerations, does hereby grant unto the Lessee, the following rights, privileges, and easements:

(a) The exclusive right, privilege and easement to capture, take and transport by such means and facilities as will not unreasonably interfere with the operation of said lime kilns, all of the exhaust or waste gases produced by, or in the operation of said three

lime kilns hereafter operated by the Lessor on lands located within a radius of one mile from said three lime kilns, and the right, privilege and easement to use said gases in the manufacture of carbon dioxide and other products and in the operation of said dioxide plant.

- (b) the right, privilege and easement to erect, lay, install, maintain, use and operate all such pipes, machinery, equipment and other facilities as the Lessee may from time to time deem necessary or convenient to capture and take said gases and to transport the same from said lime kilns to said dioxide plant.
- (c) The right, privilege and easement to take in common with the Lessor, his heirs, lessees, tenants, agents, servants and assigns, water from all quarries heretofore or hereafter opened on any lands now or hereafter owned by Lessor, whether heretofore or hereafter abandoned or not, and to appropriate and use the same in the maintenance and operation of said dioxide plant, and for all other purposes connected with or indidental thereto.
- (d) The right, privilege and easement to take in common with the Lessor, his heirs, lesses, tenants, agents, servants and assigns, water from the stream of water now known as Buck Creek, which flows through or alongside the lands of the Lessor, and to appropriate and use the same in the maintenance and operation of said dioxide plant, and for all other purposes connected with or incidental thereto, it being the intent hereof to grant unto the Lessee, all and singular the right to appropriate and use said water as fully and to the same extent as if said Buck Creek flowed through the said demised premises and the Lessee owned said demised premises in fee simple.

It is understood and agreed, however, that the right of the Lessee to take, appropriate and use said waters from said quarries and said Buck Creek shall be subordinate to the right of the Lessor, to take, appropriate and use so much thereof as may be reasonably necessary for the operation of the Lessor's said lime kilns and quarries and that, except as stated, the Lessee shall have prior, superior and preferential rights to so take, use and appropriate said waters.

- (c) The right, privilege and easement to dig, bore, drill or otherwise sink a well or wells on said demised premises and on the adjoining lands of Lessor and to take the water from such well or wells and appropriate the same to its own use for the purpose of maintaining and operating said dioxide plant and for all other purposes.
- (f) The right, privilege and easement to install, maintain and operate in any and all of said quarries, and in said Buck Creek and in said wells, or on the lands of the Lessor abutting the same, any and all pumps and other machinery, equipment and facilities that the Lessee may deem necessary to take and remove water therefrom, and the right, privilege and easement to install, maintain and operate over, along and across lands now or hereafter owned by the Lessor, any and all pipes, machinery, equipment and facilities that the Lessee may deem necessary to transport said water from said quarries, creek and wells to the said demised premises, and also for the purpose of transporting any and all of said water and the liquid substances resulting from the operation of said dioxide plant and refuse matter from said demised premises to said Buck Creek.
- (g) The right, privilege and easements in common with the Lessor, his heirs, lessees, tenants, agents, servants and assigns, to use the railroad spur track abutting on said demised premises and extending to the main line of the Louisville & Nashville Railroad, for the purpose of receiving and transporting freight and shipping the carbon dioxide and other products of the Lessee.
- (h) The right, privilege and easement in common with Lessor, his heirs, assigns, lessees, tenants, agents, servants and successors, to use that certain private road on the Lessor's land extending from said lime kilns to the public highway now known as Mirmingham-Montgomery Highway and to pass and re-pass over and along the same at any and all times with vehicles, loaded or unloaded or otherwise, and that said right, privilege and easement

may be exercised by the servants, agents and employees of the Lessee and all other persons having business with the Lessee.

- (i) The right, privilege and easement in common with the Lessor, his heirs and assigns, and his and their lessees, tenants, agents, servants and successors, to use that certain strip of Lessor's land 20 feet wife extending from the aforesaid private road to said demised premises and any and all other strips of land, not exceeding said width, heretofore used by the Lessee, extending from said private road to said Birmingham-Montgomery Highway, and to pass and re-pass over and along the same at all times with vehicles, loaded or unloaded, or otherwise, and that said right, privilege and easement may be exercised by the servants, agents and employees of the Lessee and all other persons having business with the Lessee.
- (j) The right, privilege and easement to contruct, maintain and operate over the Lessor's lands such electric transmission, signal and telephone lines as the Lessee may deem necessary for the operation of its said dioxide plant, or the conduct of its business on said demised premises, and the right, privilege and easement to construct, maintain and operate pipe lines under and along any lands of the Lessor from said demised premises to any point or points where similar and other gases can be delivered to Lessee for the operation of said dioxide plant.
- (k) The right, privilege and easement to enter at reasonable times upon the lands upon which the Lessor's said lime kilns are located and the lands wherein the aforesaid rights, privileges and easements are granted for the purpose of constructing, maintaining and operating, inspecting, repairing, restoring and replacing any and all machinery, equipment, appliances, fixtures, pumps, pipe lines and other things and facilities; provided, however, that the Lessee shall not so exercise said right, privilege and easement as to unreasonably interfere with any business or operation of the Lessor, his heirs, tenants, lessees or assigns.

It is expressly understood and agreed that each and all of the rights, privileges, and easements hereinabove granted are necessary and essential for the operation of said dioxide plant on said demised premises and that the Lessee shall be entitled to and shall be entitled to and shall have, and it is hereby granted, the full possession and enjoyment thereof, subject to the limitations hereinabove stated, to the full extent necessary for said purposes, and that said grants shall be liberally construed to effectuate the purposes for which they are granted.

- 2. The Lessor covenants with the Lessee that he is seized of an indefeasible estate in fee simple in and to said demised premises and in and to said other lands in and to which said rights, privileges and easements are hereinabove granted; that they are free from any and all encumbrances; that he has a good right to lease said demised premises and to grant said rights, privileges and easements, and that he will forever warrant and defend unto the Lessee the quiet and peaceable possession and enjoyment of said demised premises and said rights, privileges and easements during the time this agreement or any renewal thereof is in force and effect.
- 3. In full consideration of the demise of the said demised premises and the grants and conveyances of the afonesaid rights, privileges and easements and the covenants and agreements on the part of the Lessor herein contained, the Lessee covenants and agrees with the Lessor as follows:
- (a) That it will pay the Lessor before same become delinquent all advelorem taxes assessed against said demised premises for the tax year beginning October 1, 1937, and each of the subsequent tax years wholly within the aforesaid term or any renewal thereof, and if said demised premises is included in any assessment of other lands owned by the Lessor, then the Lessee will pay only such part of said taxes due under said

assessment as is based upon and represented by the assessable value of said demised premises as vacant property. The Lessee will assess and pay all ad valorem taxes on all property owned by it and located on said demised premises. In the event that any of the property of the Lessee and any improvements made by the Lessee located on said demised premises are included in any assessment of the Lessor, the Lessee will pay the Lessor in accordance with the foregoing the amount represented by such property or improvements.

- (b) That during the time that Lessor and Lessee jointly usenthat part of the spur track directly abutting on the demised premises and leading to the junction with the spur track leading to the main line of the L.&.N. Railroad, Lessee will pay Lessor the sum of Forty-five Dollars (\$45.00) for each period of twelve months of the term hereof, in advance, to be applied by Lessor to the payment pro tanto of rent for the rails therein and the maintenance of said part of said track, and if Lessor should at any time cease to use said part of said spur track in its business the Lessee shall thereafter pay the Lessor the whole of the rental for said rails therein and maintain said part of said spur track at its own expense, during the time the Lessor does not use the same. The Lessor shall at all times during the term of this agreement maintain at his own expense that part of the spur track leading from the junction referred to above to the main line of the L.&.N. Railroad.
- (c) That during the time said dioxide plant is operated, it will maintain the same and will use its best efforts consistent with good engineering practice to increase the present productive capacity thereof as it now exists.
- (d) That during the period of one year from the date hereof, it will operate said dioxide plant for a period of time not less than sixty working days, either continuously or intermittently, in such an efficient manner as may be consistent with the practice of operating carbon dioxide plants of similar equipment, character and size, and that thereafter during the term of this agreement, or any renewal thereof, it will operate the same in said manner, provided that it shall not be obligated to operate the same during any part of said term or renewal thereof subsequent to the year 1938, when, in its sole judgment and discretion, it may deem the operation thereof inadvisable.
- (8) That it will pay to the Lessor the sum of \$1.00 for each ton of two thousand pounds of carbon dioxide (exclusive of carbon dioxide manufactured or produced if and while said lime kilns are being operated under and pursuant to the provisions of Paragraph 6 hereof) sold by Lessee or otherwise disposed of by Lessee by the transfer of the title thereto and the possession thereof and which was manufactured or produced by the operation of said dioxide plant with gases manufactured or produced by the operation of said lime kilns, said payments to be made on or before the 15th day of each calendar month for and on account of said carbon dioxide so sold or disposed of during the preceding month. It is understood and agreed, however, that said consideration shall not be less than the sum of \$1,000 for each period of 12 months of the said term or renewal term hereof beginning with the date hereof; and in the event the said considerations based upon the amount or quantity of said carbon dioxide so sold and so disposed of during any such twelve months period is less than the sum of \$1,000, then and in that event, the Lessee shall pay the Lessor the difference on or before the 15th day of the month following the expiration of such twelve months period, provided, however, that in the event the Lessor operates said lime kilns under the provisions of subdivision (a) of paragraph 6 hereof, or in the event the Lessor fails to operate said lime kilns at any time unless having the right to cease to operate under the provisions of subparagraph (b) of paragraph 4 hereof, or though operating, the Lessor fails to manufacture or produce and deliver to Lessee gases in the quantity provided for in paragraph 4 hereof, then and in either event, the said sum of \$1,000 shall be reduced in the proportion that the time when he so fails to operate or so fails to manufacture, produce and deliver such sufficient

quantity of gases bears to said period of twelve months. 4. The Lessor covenants and agrees that subject to the provisions of this agreement, he will operate said lime kilns so as to manufacture or produce at all times BY THE operation thereof an amount or quantity of gases equivalent to the amount of gas produced from the continuous operation of one of said lime kilns in $g\infty$ d condition in normal operation, and will make the same as well as such other gases as may be produced by the operation of the said lime kilns available for the capture and taking thereof by the Lessee at said lime kilns, and the transportation therefrom to said dioxide plant by means of machinery, equipment and other facilities installed or to be installed for said purpose, provided, however, (a) that Lessor shall not be obligated to operate said lime kilns, or any of them, during such period of time, if any, thathe may be prevented from so doing by reason of strikes, labor diffivulties or orther causes beyond his control; and (b) should the Lessee at any time notify Lessor reasonably in advance that it will rwquire an amount of said gases not exceeding the amount thereof stated in said notice for and during the term therein stated, the Lessor shall not be obligated to manufacture or produce or deliver by the operation of said lime kilns anamount of said gases during said time in excess of the amount so stated in said notice; and (c) that in the event the continuance of the normal operation of even one of said lime kilns, when in good condition, in the reasonable judgment of Lessor will not be profitable and Lessor has furnished Lessee full and relevant information with respect thereto, then and in those events the Lessor shall not be obligated to operate normally even one of such lime kilns during the time the Lessor reasonably deems the operation thereof would be unprofitable, provided, however, that the Lessor shall give fifteen (15) days' written notice thereof to the Lessee of the time when he will wholly cease producing such gas on that account and Lessor will continue operating at least one of said lime kilns at normal capacity at least fifteen (15) days afrer such notice.

- (5) In the event the Lessor fails for any reason not mentioned in the preceding paragraph for a period of twenty four (24) hours to operate said lime kilns, or in the event the Lessor is prevented from operating said lime kilns by reason of strikes or other causes mentioned in subdivision (a) of paragraph 4 hereof, or in the event the Lessor seases to operate said lime kilns for the reasons stated in subdivision (c) of said paragraph, then and upon the happening of either one or more of said events, and during the continuation thereof, the Lessee shall have and is hereby granted the right to exercise any one or more of the following options:
- (a) The right and option to obtain carbon dioxide from time to time from any other source.
- (b) The right and option to manufacture carbon dioxide in its said dioxide plant from time to time by the use of similar or other gases or materials purchased or obtained by it from other sources.
- (6. In the event the Lessor fails for any reason not mentioned in paragraph 4 hereof for a period of twenty four hours, or in the event the Lessor should cease or fail to operate said lime kilns because of the reason set forth in subdivision (c) of said paragraph, then in either event the Lessee shall have and is hereby granted the following rights and options:
- (a) The right and option to require the Lessor to resume the operation of said lime kilns to the extent specified by the Lessee in a written notice to Lessor so to do and in that event, the Lessor will promptly resume the operation thereof and continue to operate the same with lime rock obtained from said quarries unless prevented from sometimes by strikes, labor difficulties or other causes beyond his control and for that purpose he

will employ all servants, agents and employees and furnish all materials and other things necessary so to do, and the bessee will pay the Lessor therefor the actual and reasonable out-of-pocket expense incurred by the Lessor therefor as determined from the books and records of the Lessor, the payment of such out-of-pocket expense so incurred during any month to be paid on the 15th day of the following month. It is understood that the term "out-of-pocket expense " as used in this subparagraph shall include all reasonable and actual cost and expense of advertising, processing and packaging lime, exclusive of compensation for lime rock, depreciation, obsolescence, salaries of executives, use of storage facilities and selling and distribution expense. It is understood that the Lessor shall operate said lime kilns and quarry lime rock therefor during said time and in such manner and to such extent and only to such extent as shall be necessary to fill the requirements of said dioxide plant and that the Lessor will not employ any more servants, agents or employees to operate sadd lime kilns or said quarries during said time than is reasonably necessary to do so and that the Lessor will not pay or agree to pay for such services any wages in excess of the scalle of similar wages in effect during such preceding month in the majority of the other lime manufacturing plants in Shelby County, Alabama, In the event the Lessor operates said lime kilns under the terms of this paragraph, the Lessee shall have no control, direct or indirect, over said servants, agents or employes, or said operations, and no authority, express or imimplied, over the ways , means or methods by which said operations are conducted, but on the contrary, said servants, agents and employees shall be the sole and exclusive servants, agents and employees of the Lessor and said operations shall be conducted solely and exclusively by the Lessor, it being the purpose and intent hereof in said event, that the Lessor shall be an independent contractor with respect to all of said matters. All gases manufactured or produced by the Lessor during the time he is so operating said lime kilns shall be deemed and considered gases manufactured or produced and deliverable to the Lessee as fully and to the same extent as if the Lessor has continued the operation of said lime kilns without being so required to do. All lime manufactured during the time Lessor is so operating said lime kilns under this paragraph (a) shall be the property of the Lessee, provided that Lessor shall store the said lime to the extent of his facilities and shall have the exclusive right to sell the same and shall pay Lessee fifty percent of the gross proceeds thereof, less selling and distributinf expenses, it being understood and agreed that the Lessor will keep all the lime manufactured or produced by the operation mentioned in this subparagraph (a* separate and distinct from any and all other lime at any time manufactured or produced by him and that all sales of lime manufactured or produced by the operation under this subparagraph made after the sales of all lime on hand as a result of previous operations of said lime kilns, or any of them, will be made out of the lime manufactured or produced by the operation under this subparagraph, if saleable, until all of the same is sold. The aforesaid payments for the lime so sold shall be made on the 15th day of each month for and on account of sales of lime made during the preceding month, and shall be in full payment therefor. The Lessor shall process and package such quantity of the lime produced under this subparagraph as the Lessee may, from time to time, specify. The operation of said lime killns by the Lessor under the terms of this subdivision shall continue until such time as the lessor may notify the Lessee that he is ready, willing and able to again operate said lime kilns the same as if this option had not been exercised, or until such time as the Lessee may notify the Lessor to discontinue said opetation under the terms of this subdivision. (b) The right and option to enter upon and to take the exclusive possession of said lime kilns and to operate any one or more of them and to enter upon and take the possession of and operate such of the quarries of the Lessor as may be reasonably necessary for the purplose of obtaining lime rock to operate said lime kilns, and to open and operate such other quarries on the lands of the Lessor as the Lessee may deem necessary for said purpose,

and to enter upon and take possession of all machinery, equipment and other facilities of the Lessor then used or useful in the operation of said lime kilns and said quarries, and to operate said lime kilns with lime rock taken from said quarries or obtained elsewhere, all for the purpose of manufacturing or producing gases by the operation of said lime kilns for use by the Lessee in the manufacture or production of carbon dioxide or o ther products at its said dioxide phant on said leased premises.

The words "lime kilns" and the word quarries" as herein above used shall include so much of the lands adjoining said lime kilns and quarries as may be reasonable necessary for the operation of said lime kilns and quarries and for the storage of the lime producedm and any machinery, equipment and other things used in commection therewith.

In the event the Lessee takes possession of said lime kilns, all cost and expenses of the operation thereof of every kind and character shall be borne by the Lessee. The Lessee agrees to keep the same in good repair and working order during its operation thereof and agrees to conduct such operations in a good and workmanlike manner following and observing approved methods of quarrying and of operating said lime kilns and shall manufacture and produce lime by the operation of said kilns of such good and merchantable quality as may be reasonably possible from the operations thereof with the materials used for such purposes.

During the operations under this paragraph the Lessee will pay the wage scales and keep and observe the hours of daily work by employees and other conditions and rules of employment of labor which are in effect in the majority of the other lime manufacturing plants in Shelby County, and will not pay wages in excess of such wage scale nor negotiate regarding, or settle, a labor dispute pertaining to such operations without consultation with the Lessor. All lime manufactured during the time Lessee is so operating said lime kilns under this subparagraph (b) shall be the property of the lessee, provided that lessee shall store the said lime to the extent of available facilities and the Lessor shall have the exclusive right to sell the same and the gross proceeds of each sale thereof, less selling and distributing expenses, shall thereupon be divided between and payable to the parties hereto equally, it being understood and agreed that the Lessee will keep all the lime manufactured or produced by the operation mentioned inthis subparagraph (b) separate and distinct from any and all otherline at any time manufactured or produced by the Lessor and that all sales of lime manufactured or produced by the operation under this subparagraph made after the sales of all lime on hamd as a result of previous operations of said lime kilns, or appy of them, will bemade out of the lime manufactured or produced by the operation under this subparagraph, if saleable, until all of the same is sold. The aforesaid payment's for the lime so sold shall be made onthe 15th day of each month for and on account of sales of lime made during the preceding month, and shall be in full payment therefor.

The Lessee agrees to indemnify and hold harmless the Lessor from and against all claims, damages, liabilities, actions and causes of action for loss or damage to any property of the Lessor, or other parties, or injury to or death of persons, arising from or growing out of the operation by the Lessee of said lime kilns or said quarries, or any machinery, equipment, pipe lines, facilities or other things used by the Lessee in connection therewith.

In the event the Lessee takes possession of said lime kilns and quarries as hereinabove authorized, then and in that event it may operate the same until it gives fifteen (15) days' written notice to Lessor that it elects to discontinue its operation thereof, and it shall have the right to operate the same until the Lessor gives the Lessee fifteen days' written notice that he desires and is ready, willing and able to resume the operation of such lime kilns, whereupon the Lessee, upon the expiration of said fifteen days, shall return and surrender to the Lessor said lime kilns and quarries and other property of the Lessor possessed by the Lessee for said purpose and the Lessor agrees to

thereupon resume and continue the operation of said lime kilns upon the terms, covenants and conditions on his part herein contained with respect thereto, the same as if the operation thereof by the Lessor had not ceased or been interrupted.

- 7. In the event the Lessor is operating but fails to manufacture or produce and deliver to Lessee gases in sufficient quantity for the requirements of the Lessee's said dioxide plant, then the Lessee shall have and is hereby granted the rights and options hereinabove set forth in subdivisions (a) and (b) of paragraph 5 hereof.
- 8. Each and every option herein granted to the Lessee shall be a continuing option other and the exercise of any one/shall not prevent the exercise of any/option at the same time and the exercise of any option by the Lessee at any time, or the failure of the Lessee to exercise any option at any time, shall not exhaust or be a waiver of said option and each and every such option may be thereafter exercised notwithstanding any previous exercise or failure to exercise the same.
- 9. The Lessor agrees, upon the written request of the Lessee, to erect and install a a proper cover for that one of said three lime kilns which now has nocover, the cost thereof to be borne equally by the Lessor and the Lessee.
- 10. The Lessor will maintain and keep each of said three lime kilns, including said covers and also said quarries and all machinery and other facilities used in commection with said lime kilns or quarries in such good repair and condition as will enable the Lessor or Lessee, when operating the same, to manufacture or produce at all times by the operation thereof the quantity of gases herein agreed to be manufactured or produced and delivered to the Lessee. The Lessor will so operate said lime kilns as to manufacture or produce gases of the highest possible Co^2 content consistent with good lime kiln operation. In the event that the average Co^2 content in said gases over a period of seven consecutive days is less than twenty percent, then the Lessee may exercise either or both of the said options mentioned in subdivisions (a) and (b) of paragraph 5 hereof until said percentage equals twenty percent of Co^2 .

The Lessor agrees to replace any cover now or hereafter installed on any of said lime kilns whenever it is necessary so to do, furnishing all labor therefor, and the Lessee will pay the Lessor one-half of the cost of each cover so replaced and one-half of the actual expense of the installation thereof. The Lessor will maintain the covers now or he reafter installed on said lime kilns in good operating condition and the Lessee will pay the Lessor one-half of the cost and expense of such maintenance.

11. In the event said three lime kilns, or any one or more of them, or any machinery, equipment. facilities, buildings or structures used in connection with the operation of said lime kilns or quarries are destroyed by fire or other casualty or damaged as to interfere with or prevent the operation thereof, then the Lessor agrees to rebuild, replace or repair the same and to erect and install similar covers on each of said kilns, all at his expense, as soon thereafter as practicable, it being understood that said lime kilns, machinery, equipment facilities, buildings or structures as so rebuilt, replaced, repaired and covered shall be substantially the same as or better than they were when so destroyed or damaged and of the same or a larger productive capacity. In the event Lessor fails so to do with in a reasonable time, the Lessee may enter upon the premises of the "essor where said lime kilns or said other property were located and rwbuild, replace or repair the same, furnishing all material and labor necessary therefor. Upon the completion of said work, the Lessee will furnish the Lessor with full date and information showing the amount of the cost thereof and thereupon the Lessor will execute to the Lessee suitable evidence of indebtedness therefor, with interest thereon at the rate of six per cent per annum, payable to the Lessee on or before the expiration of five years after said work is completed, and granting Lessee a lien on said property so rebuilt, replaced or repaired and so much of the lands upon

which they are located as lies west of the southbound main line track of the Louisville & Nashville Railroad. All of the terms of this agreement shall apply and attach to all the kilns referred to in subdivision (a) of paragraph 1 hereof and to all of said kilns as so rebuilt.

12. Lessor covenants and agrees that in the event of the sale by Lessor of the demised premises, or any part thereof, or the sale of the lime kilns herein referred to or the land upon which the same are situated, or the lands upon which any of the aforesaid rights, privileges and easements are granted, or the sale of any land owned by Lessor upon which any quarry is located, or the sale of any land of the Lessor which will be needed during the term or renewal term hereof in order to quarry lime rock therefrom to operate said lime kilns, such sale shall be made subject to all the rights, easements and provisions hereby demised and granted unto the Lessee and that before selling the same, or any part of the same (except the lands owned by the Lessor situated on the east side of the Southbound main line track of the Louisville & Nashville Railroad Company) to another, the Lessor will give the Lessee the opportunity to purchase the same at the same price which the Lessor is offered therefor, and he hereby gives am grants to the Lessee the right and option at any time during the term of this agreement, or any renewal or extension thereof, to purchase said demised premises, said lime kilns or said other property at the same price as offered by another which the Lessor is willing to accept, provided, however, that the Lessee exercises said option within thirty days after the receipt of written notice from the Lessor that the Lessor proposes to sell the same, describinf said property and the terms of such sale, and if Lessee fails to exercise such option to accept such offer of the Lessor, in writing within the said thirty days after receipt of such written notice from the Lessor, then the Lessor shall have the right to sell the same to whomsoever he pleases and desires, but it is distinctly understood and agreed that such sale shall be made subject to all the estates, rights, privileges and easements of the Lessee hereinabove demised and granted, and that such sale shall in no wise affect or interfere with the Lessee's said estates, rights, privileges and easements.

A gift, devise, bequest or conveyance by the Lessor, his heirs, executors, administrators or devisees, to any member or members of Lessor's immediate family, (wife and children of Lessor constitute his immediate family) or to a corporation organized, owned or controlled by the Lessor, his heirs, executors, legatees ordevisees, shall not be considered a sale within the meaning of that term as herein used, but such gift, devise, bequest or conveyance to a member or mambers of Lessor's immediate family, or to such a corporation, shall be subject to all the estates, rights, privileges and easements herein demised and granted to the Lessee, including said option to purchase said properties at the same price offered by another in preference to such other in the event the Lessor, his heirs, executors, administrators or devisees desire to sall at such price.

13. It is understood and agreed that the Lessee may from time to time enlarge said dioxide plant, not beyond the limits of said demised premises, or increase the capacity thereof, by constructing, installing, maintaining and operating such additional buildings, structures, machinery, equipment, appliances and other things as it may deem necessary or desirable therefor and that all of the terms, conditions and covenants herein contained shall attach and apply to said dioxide plant as so enlarged and increased to the same extent as if said dioxide plant as so enlarged and increased were now located on said demised premises, provided, however, that notwithstanding said dioxide plant may be so enlarged and increased, the Lessor shall not be abligated to manufacture or produce gases at its present lime kilns in excess of the amount or quantity required by the provisions of paragraph 4 hereof to be manufactured or produced by Lessor. It is also understood and

agreed that if said dioxide plant is destroyed by fire or other casualty, or if the

Lessee should dismantle the same, and a new dioxide plant is constructed on said demised

premises, then all of the terms, conditions and coverants hereof shall attach to said new plant as fully
and to the same extent as if the same were now located on said demised premises, but that
the Lessor shall not be obligated hereunder to manufacture or produce any of said gases in

excess of the amount or quantity required by Paragraph 4 hereof to be manufactured or produced.

14. Each party hereto shall be excused from the performance of his or its obligations if and during the time it may be prevented from so performing by strikes, labor difficulties, or other causes beyond its control.

15. The Lessor agrees to indemnify and hold harmless the Lessee from and against any and all losses, claims, demands, damages, liabilities, actions and causes of action for and on account of destruction of or damage to property, or injury to or death of persons acc ruing to or against Lessee, caused by or arising out of the construction, maintenance or operation of any lime kiln or quarries, or any business or operation of the Lessor now or hereafter located on premises now owned by the Lesson; and the Lessee agrees to hold harmless and indemnify the Lessor from and against any and all claims, losses, demands, damages, liabilities, actions and causes of action for or on account of destruction of or damage to property, or injure to or death of persons accruing to or against Lessor, caused by or arising from the construction, maintenance or operation of said dioxide plant by the Lessee, or any business or operation conducted by Lessee on said demised premises, or any other lands of Lessor. It is expressly understood and agreed that the aforesaid covenant and indemnity on the part of the Lessee shall not cover or apply to the operation by the Lessee of said lime kilns, quarries, machinery, equipment, pipe lines, facilities or other things used by the Lessee if and when the Lessee or other things used by the Lessee if and when the sub-Lessee is operating the same, indemnify therefor being provided for in/paragraph (b) of paragraph 6 hereof.

by the said lime kilns any products or product other than carbon dioxide and sell the same, or use any such product or products in the manufacture of another product or products and sell the same, the Lessee shall pay to the Lessor such reasonable royalty on such products so sold as may have been mutually agreed upon prior to any sales or use and no sales or use of such products shall be made until the amount of such royalty shall have been agreed upon. 17. Each party, his or its agents and servants, shall have the right at all reasonable times to inspect the relevant books and invoices of the other party for the purpose of ascertaining the amount of any and all sums payable hereunder by the other party. 18. It is expressly understood and agreed that said dioxide plant and all buildings, structures, machinery, equipment, appliances, facilities, pipes and other improvements and property erected, placed or brought by Lessee on said demised premises or on other lands of the Lessor, shall, at all times, be and remain the personal property of the Lessee, provided however, that Lessor shall have a lien thereof for all sums payable to him by Lessee hereunder. The Lessee may enter upon any and all of said premises at any time within ninety (90) days after the expiration or termination of this agreement, or of any renewal thereof, and thereupon remove all of the said properties other than buildings and structures if not then in default in the performance of any of the covenants or agreements on the part of the Lessee herein contained, it being understood that upon such expiration or termination the title to such buildings and structures shall thereupdn vest in the Lessor.

16. In the event the Lessee shall extract or produce from the gases manufactured or produced

19. In the event the Lessee fails to pay the said ad valorem taxes on said demised premises as hereinabove agreed on in subparagraph (a) of paragraph 3 hereof, then and in that event the Lessor may pay the same and shall have a Lien on all the property

of the Lessee located thereon to secure the repayment thereof to Lessor, with interest thereon at the rate of six per cent per annum.

- 20. In the event that the parties should agree at any time before the 15th day of November, 1957, upon the compensation to be paid by the Lessee hereunder during a term of twenty (20) years from the expiration of the aforesaid term hereof, then and in that event the Lessee shall have and is hereby granted the right and privilege to renew this agreement before said date for said additional term of twenty (20) years, upon the terms, conditions and covenants herein stated, except that the compensation payable by the Lessee hereunder during said renewal term shall be as so agreed upon. The parties agree to confer with one another with reference to the aforesaid matters at least not later tham May 15, 1937.
- 21. Should there be any difference of opinion or controversy between the parties hereto as to any sum payable hereunder by either party to the other, or as to any other question of fact that may arise hereunder, the same shall be submitted to arbitration, each of nthe parties to appoint an arbitrator, which two persons so appointed shall arbitrate said matter, and if they are unable to agree, then they shall name a third person. In the event either party fails to appoint an arbitrator within fifteen (15) days after being notified in writing of the appointment by the other party, any judge of the United State\$ District Court, or like court having jurisdiction in the State of Alabama, is hereby authorized to appoint an arbitrator for said party so in default, upon the application of the party not in default, and in the event the two arbitrators appointed hereunder, as above provided, should fail upon disagreement to appoint a third arbitrator within fifteen (15) Mays after such disagreement, then such third arbitrator may be appointed by any such judge upon the application of either party. The decision of any two of said arbitrators so appointed as above provided on the question raised by said difference of opinion or controversy, shall be binding and conclusive on the parties. Each party shall pay the compensation of the arbitrator appointed by or for him or it. All other expenses of such arbitration shall be paid one-half by the Lessor and one-half by the Lessee.
- 22. Either party may terminate this agreement by giving written notice to the other party upon the happening of any one or more of the following events:

 (a) In the event the other party makes default in the payment of any sum of

money due hereunder by him or it and fails to pay the same within thirty days after being notified in writing of said default by the party to whom such money is due;

- (b) In the event the other party makes default in the performance of any of the terms, conditions and covenants on his or its part herein contained, other than the payment of money hereunder, and fails to make good or remedy such default within thirty days after being notified in writing thereof by the party not in default;
- (c) In the event an execution is levied upon any of the property of the other party herein referred to and the judgment for which such execution was levied is not paid, set aside or superseded within thirty days after such levy, or a Receiver is appointed for any of the said property of the other party under any insolvency or bankruptcy law, or a general assignment for the benefit of creditors is made by the other party, or a petition is filed by or against the other party under any insolvency or bankruptcy law;

The Lessee may terminate this agreement by giving written notice to the Lessor in the event the Lessor, without default hereunder, fails to operate the lime kilns referred to herein at any time for a period of any twelve consecutive months during the term of this agreement or any extension or renewal hereof, and the Lessor may likewise so terminate this agreement in the event the Lessee without default hereunder fails to operate the dioxide plant at any time for a similar period.

It is understood and agreed, however, that neither party shall have the right to terminate this agreement for and on account of any alleged default in the event the matter of such default has theretofore been submitted to arbitration and has not been decided by said arbitrators. It is further understood and agreed that the right of the Lessee to terminate this agreement as herein authorized shall not be destroyed, impaired or otherwise affected by reason of the fact that the Lessee has exercised or is exercising any of the rights or options granted to it in this agreement.

The failure of either party to terminate this agreement for and on account of any default, or the failure of either party to give notice to the other party of any default, shall not destroy, affect or otherwise impair his or its right to terminate the same for or on account of any default thereafter occurring, or of giving notice of any default thereafter occurring.

The Lessee shall have and is hereby granted the absolute right without cause to terminate this agreement at any time during the original term hereof upon thirty days written notice thereof to the Lessor by paying to the Lessor a sum of money that in addition to the amounts theretofore paid under the provisions of subparagraph (d) of paragraph 3 shall equal \$20,000, and in the event that \$20,000 shall theretofore have been paid by the Lessee to the Lessor under the provisions of the said subparagraph, the Lessor may so terminate this agreement without payment of any sum of money to the Lessee.

Notwithstanding the provisions of paragraph 20 hereof, the foregoing right of Lessee shall apply only during the original term hereof, provided, however, that the amount to be paid for a similar right of cancellation in any renewal term shall be the subject of agreement at the same time and in the same manner provided for in paragraph 20 to ascertain the compensation payable under such renewal, and uponthe renewal or extension under Paragraph 20 such right shall be included therein at the agreed amount.

23. All notices required or authorized to be given by the Lessee to the Lessor hereunder shall be given by mail addressed to him at Siluria Alabama, and all notices required or authorized to be given by the Lessor to the Lessee hereunder shall be given by mail addressed to it at No. 2203 Third Avenue, South, Birmingham, Alabama, Each party may, from time to time, charge the address to which notices to him or it shall be given by notifying the other party in writing of a different address and said notices shall thereafter be given by mail to the other party so changing his or its address at said different address, so long as the same remains unchanged.

24. This agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, successors and assigns.

The undersigned Annie W. Scott, the wiffe of George L. Scott, the Lessor, in consideration of the covenants and agreements on the part of the Lessee hereinabove contained, and in further consideration of the sum of One Dollar (\$1.00) in hand paid to her by the Lessee, and the receipt whereof is hereby acknowledged, does hereby consent to this agreement, does hereby goins in the execution thereof for the purpose of relinquishing for the benefit of the Lessee, its successors or assigns, all rights of dower and other gights which she may now have or hereafter be entitled to in or to the said demised premises and any and all of the other real estate in and to which the Lessee is granted the rights, privileges and easements described or set forth.

In witness whereof, the said George L Scott, (Lessor) and Annie W.Scott, his wife, have hereunto set their hands and seals, and the said Alabama Carbon Dioxide Ice, Inc., has caused these presents to be executed for it and in its corporate name by J.F. Oates, its President and the same to be attested and its seal hereto affixed by K.H.Clem, its Secretary, who are hhereunto duly authorized, all on the day and year first above written.

George L. Scott

(L.S.

Annie W.Scott

(L.S.

Alabama Carbon Dioxide Ice, Inc.,

By J. F. Oates, Its President

Attest:

K.H.Clem Secretary

State of Alabama) County of Shelby)

I, C.V.Moore, a Notary Public in and for said County, in said State, hereby certify that George L.Scott and Annie W.Scott, his wife, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office, this 24th day of May 1938

C.V.Moore, Notary Public

State of Alabama) County of Shelby)

I, C V Moore, a Notary Public in and for said County in said State hereby certify that on the 24th day of May 1938, came before me the within named Annie W Scott, known to me to be the wife of the within named George L Scott, who ,being examined separate and apart from her husband, touching her signature to the within instrument, acknowledged that she signed the same of her own free will and accord, without fear, constraint or threats on the part of yhe husband.

In witness whereof I hereunto set my hand and official seal this the 24th day of $^{\rm M}$ ay,1938

C V Moore, Notary Public

State of Alabama ounty of Jefferson)

I, R L Lange, a Notary Public on and for said County, in said State hereby certify that J F Cates, whose name as President of Alabama Carbon Dioxide Ice Inc. a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily en-t for and as the act of said corporation.

Given under my hand and official seal, this the 24th day of May 1938 R L Lange, Notary Public

STATE OF ALABAMA SHELSY COURTY

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L. C. WALKER, JUDGE OF PROBATS