

2312
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Agreement of Lease, Made this 7th day of January 1953,
between the ATLANTIC COAST LINE RAILROAD COMPANY, a corporation created and
existing under the Laws of Virginia, hereinafter called the Lessor, and the ALABAMA AGGREGATE
COMPANY, a corporation under the Laws of the State of Alabama

, hereinafter called the Lessee:

WITNESSETH: That the Lessor, for and in consideration of the rents and covenants hereinafter set forth to be paid and performed by the Lessee, has leased and demised unto the said Lessee, the following quantity of rail and other material, hereinafter called rails, to-wit: four thousand and fifty-six (4,056) lineal feet, of 80 pound relay rail and any angle bars that may be attached when rail is delivered, together with two (2) 15-foot relay 80-lb. switches; two (2) relay New Century, low target, switch stands; two (2) No. 8 relay 80-lb rigid frogs; two (2) relay 80-lb. guard rails; two (2) new 80-lb. guard rails; four (4) new 80-lb. guard rail clamps; and two (2) relay 80-lb. guard rail clamps, said rails having heretofore been delivered to the Lessee as provided in an agreement dated October 1, 1947, between the parties hereto, which agreement is hereby cancelled and superseded, to be used by the Lessee in the maintenance and operation of railroad track facilities at or near Pelham, Shelby County, Alabama, and for no other purposes whatsoever, said track facilities being more particularly described in an agreement dated October 1, 1947, between the parties hereto covering said track facilities.

~~to be used by the Lessee in the construction and operation of railroad track facilities at~~
~~and for no other purposes whatsoever~~

SUBJECT, HOWEVER, to the following conditions, which are agreed to and accepted by the said Lessee, that is to say:—

FIRST: That the Lessee will pay to the Lessor, as rental for the use of said rails, (a) the sum of Two Hundred Seventy-three and 96/100 - Dollars (\$ 273.96) per annum in twelve (12) equal installments, of Twenty-two and 83/100 Dollars (\$22.83) each, the first of which installments shall be and become due on the first day of March , 1953 , and the others on the first day of each month thereafter during the life of this lease, and (b) a sum of money equal to the amount the Lessor shall pay for any and all taxes, the United States, State, Municipal, County or Special, which may be levied on or charged against the rails hereby leased during the life of this agreement, payment of such monies to be made to the Lessor by the Lessee within thirty (30) days after rendition of bill for same.

SECOND: That the Lessee will, if so required by the Lessor, obtain from the owner or owners of any and all lands upon which the said rails may be located in said track facilities, a grant or easement for the construction of said track facilities, which said grant shall be in writing, executed for recordation and by Lessee duly recorded, giving the Lessee the right to construct and operate said track facilities, and giving the Lessor herein the right at the time to enter upon the said lands and remove the said rails, in the event this lease is terminated as hereinafter provided, or at the expiration of the term or terms hereby created.

THIRD: That the Lessee, in ^{maintaining} ~~constructing~~ track facilities with the rails hereby leased, will place under each thirty foot section of rail not less than 18 cross ties, and will at all times thereafter maintain that number of sound ties under and with good bearing against said rails, and will in this and all other respects so maintain said rails that at the expiration or other termination of this lease the said rails shall be returned to Lessor in as good condition as same now is, reasonable wear and tear excepted. Lessor may from time to time inspect said rails in the possession of Lessee, and Lessee will promptly make such changes or alterations, if any in the track facilities in which the rails are laid as may be suggested in writing by Lessor as necessary in order to protect said rails from damage. It is expressly agreed however, that failure of Lessor so to inspect said rails or to make such written suggestions shall in no way affect, modify or lessen the obligation of Lessee to protect said rails from damage. At the expiration or other termination of this lease the rails returned by Lessee hereunder shall be checked as to quantity and condition, and so much of said rails as shall be so damaged, otherwise than by ordinary wear and tear, as not to be of further use in railroad track facilities shall be rejected by Lessor, and checked as short, and such shortage shall be paid for by Lessee at the rate and in the sum hereinafter, in Paragraph SEVENTH, provided.

FOURTH: That the Lessee will indemnify and save harmless the Lessor against any and all claims, losses, or damages, on account of the construction or maintenance of said track facilities upon the land of others, or on account of obstruction to the owners of such lands, as well as against all claim or claims, suits or demands on account of stock killed or injured by engines or trains operating on said track facilities at the request of the Lessee, or for its purposes; as well also against claims for damage to or injury of persons or property upon said track facilities as aforesaid, or by fire set out by engines operating thereon as aforesaid.

FIFTH: That the Lessor shall have, and is hereby given, the right to use the track facilities constructed from said rails for the purpose of obtaining ballast, cross ties or other material for its own use, and that the Lessee will, so far as it legally may, cause all shipments originating or delivered on the railroad track facilities in the construction or operation of which said rail and other material is employed to be routed over the lines of the Lessor and its connections, unless the charges for such shipments over the lines of the Lessor and its connections are higher than the lawfully published rates for like transportation of similar shipments over the lines of other railroad companies.

SIXTH: That if default shall be made by the Lessee in payment of any installment of the rent herein reserved, or in payment of any monies herein provided for, and such default shall continue for thirty (30) days after such monies or rental are due, or if the Lessee shall fail in any respect to fully and completely comply with and perform the covenants herein contained, by it to be kept and performed, or if the Lessee shall be declared bankrupt, or the property of the Lessee shall be placed in the hands of a receiver or trustee, or taken from the control of the Lessee by operation of law or otherwise, then and in that event, Lessor shall have the option and right to terminate, cancel and annul this contract by notice in writing to the Lessee, and to enter upon any lands and retake and remove the rails hereby leased, without in any way releasing or impairing its right to sue for and recover from the Lessee any rentals or other sums that may be due said Lessor under the terms of this lease, or for shortage in said rails so retaken, including the cost and expense to the Lessor of so removing said rails.

E.C.B.
~~That the Lessee shall execute and deliver to the Lessor its bond in the sum of \$ _____, 19 _____, elect to terminate its responsibility under said bond as it has reserved the right to do under the terms of said bond, then and in that event, and notwithstanding any other provision hereof, this agreement shall be terminated and annulled, without further notice by the Lessor to the Lessee.~~

SEVENTH: That the Lessee shall not sublet or remove any of the said rails without the written consent of the Lessor; and that the Lessee will, at the expiration of the life of this agreement, or the sooner termination thereof, take up, and at its own expense deliver to the Lessor, the rails hereby leased, loaded on cars to be furnished by the Lessor, at Pelham Alabama, and will pay for any shortage in the amount so delivered to the Lessor, including shortage of the kind mentioned in THIRD hereof, at the rate of \$ 50.00 per ton of 2240 pounds, or aliquot part thereof, for rail and in sum of \$ 1,298.86 for the other material.

And it is further mutually covenanted and agreed by the parties hereto:

EIGHTH: That unless terminated by Lessor as in SIXTH hereof provided, this lease shall continue in force and effect for the full term of Thirty (30) days, from and after the date hereof, and thereafter, as a lease from month to month, until the same shall be terminated by thirty (30) days' written notice from either party hereto to the other. Upon the giving of said notice in writing, by either party, as aforesaid, said lease shall expire upon the expiration of the thirty days named therein.

NINTH: That the Lessee hereby covenants that the rails hereby leased shall not during the term of this lease be laid in the track facilities of, or used by any common carrier of persons or property other than Lessor.

~~TENTH: That the Lessee shall execute and deliver to the Lessor its bond in the sum of \$ _____ Dollars (\$ _____), payable to the Lessor, to be underwritten at the cost and expense of the Lessee by such good and sufficient corporate surety as may be approved by the Lessor, conditioned upon the faithful performance of this agreement and all of its terms as herein provided, said bond to be kept in force at the cost and expense of the Lessee until all obligations of the Lessee contained in this agreement shall have been fully discharged and fulfilled, or the Lessee shall have been specifically released therefrom by a written instrument signed and sealed by an authorized officer of the Lessor.~~

IN WITNESS WHEREOF, The said parties have executed this agreement, the day and year first hereinbefore written.

Checked by *Qite*
Asst. Chief Clerk

Attest: *James A. ...*
Assistant Secretary.

WITNESSES:

As to Lessor { *E. C. Adams*
M. M. Lewis

As to Lessee { *W. Deck*
Betty J. Miller

ATLANTIC COAST LINE RAILROAD COMPANY

By *B. S. ...*
Asst. Vice-President

ALABAMA AGGREGATE COMPANY

By: *A. L. McCullough* (Seal)
President

Attest: *J. H. ...* (Seal)
Secretary

ALABAMA FORM

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, JESSIE LEE GREENE, a Notary Public in and for said County and State, hereby certify that D. L. McCULLOUGH, and J. P. McCARTY whose names as PRESIDENT and SECRETARY respectively, of the Alabama Aggregate Company

a corporation, are signed to the foregoing instrument, and who are known to me, severally acknowledged before me this day that, being informed of the contents of the instrument, they as such officers and with full authority executed the same voluntarily for and as the act of the said corporation

Given under my hand and official seal this 6th day of February 1953.

Jessie Lee Greene
Notary Public.

My commission expires on the 22nd day of April 1953.

ALABAMA FORM

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STATE OF N.C.COUNTY OF New Hanover

I, A. J. Leachery, a Notary Public in and for said County and State, hereby certify that C. G. Sibley, and W. Z. Macabille whose names as Asst. Vice Pres. and Asst. Secretary respectively, of the Atlantic Coast Line Railroad Company

a corporation, are signed to the foregoing instrument, and who are known to me, severally acknowledged before me this day that, being informed of the contents of the instrument, they as such officers and with full authority executed the same voluntarily for and as the act of the said corporation

Given under my hand and official seal this 10th day of March 1953.

A. J. Leachery
Notary Public.

My commission expires on the 30th day of September 1954.

Approved as to Form

Douglas W. Matthews
Division Counsel.
Solicitor

Approved:

M. L. Chastain
Superintendent.

Approved as to execution
by Lessee:

Douglas W. Matthews
Division Counsel.
Solicitor

Approved:

W. A. Spall
Engineer Maintenance of Way.

Approved and description checked:

Real Estate Agent.

Approved:

J. J. Stockard
General Superintendent.

Filed in the office of the Probate Judge on the 24 day of Mar 1953 at 8 o'clock P M.
and recorded in Deed Book 158 Page 522 this 25 day of Mar 1953.
Deed Tax 2.50 Mortgage Tax — has been paid.

L.C. Walker, Judge of Probate