

2477

L E A S E

THIS LEASE, made and entered into this 25th day of January, 1963, by and between ALABAMA REFRACTORY CLAY COMPANY, INC., an Alabama corporation having its principal office at Montevallo, Alabama, hereinafter called "Lessor", and LUTHER W. WOOTEN, of Montevallo, Alabama, hereinafter called "Lessee",

W I T N E S S E T H:

1. That the Lessor, for and in consideration of the royalties hereinafter reserved and the covenants and agreements hereinafter expressed to be kept and performed by Lessee, has granted and leased, and by these presents does grant and lease unto the Lessee, his heirs and assigns, exclusively for a period of twenty (20) years from the date hereof, the right to mine, remove and sell the low-grade class of clay located at the upper level of the clay deposits, which is not suitable for refining and which is hereinafter referred to as "crude clay", now located in, under or upon all lands owned by ALABAMA REFRACTORY CLAY COMPANY, INC., or subsequently acquired by such company in Shelby County, Alabama, and in, under and upon all lands in said County on which said company now holds or hereafter acquires leases for clay mining rights, together with free ingress and egress to and from said lands located in Shelby County, Alabama, owned or leased by ALABAMA REFRACTORY CLAY COMPANY, INC.

TO HAVE AND TO HOLD all and singular the property rights hereinabove mentioned for said term of twenty (20) years from and after the date hereof.

2. The Lessee covenants and agrees to pay the Lessor a royalty of twenty-five cents (25¢) per ton (based on shipping weight) of clay mined and removed from said lands of Lessor and

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designated by Lessee as merchantable. A settlement of said royalties shall be made on or before the 15th day of each month for all such merchantable clay loaded on railroad cars or trucks and shipped during the preceding calendar month.

3. The Lessee agrees to keep a complete record of operations and all sales made by him and agrees to give the Lessor monthly statements on the 15th day of each month showing the preceding calendar month's operations and sales.

4. Lessor will mine said crude clay and on normal working days specified by Lessee will load on railroad cars or trucks such portion thereof as Lessee designates to be merchantable clay, and will, if requested by Lessee, assist him in the shipping and invoicing of such merchantable clay for his account; provided, however, that Lessee will pay any costs incurred by Lessor in removing the overburden above said crude clay below five feet (5') from the ground level of said property. In order that Lessee may have clay ready for shipment in rainy or inclement weather, Lessor will store for Lessee not less than twenty (20) carloads of crude clay at all times and will make available to Lessee a reasonable amount of desk and office space in its offices at Montevallo, Alabama, all without cost to Lessee other than the royalties above specified.

5. The right herein granted Lessee, his successors and assigns, to mine, remove and sell said crude clay shall, as aforesaid, be exclusive, but, anything herein to the contrary notwithstanding, the Lessor hereby reserves (a) the right to mine crude clay for its own account from the clay pit located in or on its property now known as Pit No. 2 and to use same as an additive to its refinable clay or in connection with the manufacture of any articles which it subsequently manufactures from refinable clay (but not to ship or resell such crude clay as such), and (b) the

ownership of and the right to remove and sell for its own account the lower level of clay on its properties, said lower level of clay being the clay with sufficient silica rock content to make same suitable for refining.

6. The Lessee agrees not to refine or process said crude clay and not to sell the same for resale to any person or company engaged directly or indirectly in processing or refining crude clay or competing with Lessor in its operations, but will sell only to "end users".

7. This lease shall be binding upon and shall inure to the benefit of the respective heirs, executors, administrators, devisees, legatees and assigns of the parties hereto for the full term of this lease.

8. During the term of this lease, the Lessor will not sell the assets of its said business, or encumber, lease or sublease lands now or hereafter owned by it or now or hereafter leased by it, without making provision satisfactory to Lessee to insure the performance of this lease by Lessor.

All royalties herein provided for shall be promptly paid by Lessee to Lessor at its offices in Montevallo, Alabama, on the 15th day of each month, as aforesaid, and if Lessee fails to make such payment, or violates any other covenant of this lease to be performed by it, then Lessor may terminate this lease by giving ninety (90) days' notice, in writing, and if Lessee has not made such payment or corrected such breach within said ninety (90) day period, then the lease shall be considered terminated, and Lessee agrees, in such event, to surrender possession of said premises to Lessor, and this lease shall be of no further force and effect.

IN WITNESS WHEREOF, the Lessor has caused these presents to be executed, and the Lessee has hereunto set his hand and

seal, on this the day and in this the year first hereinabove
written.

ALABAMA REFRACTORY CLAY COMPANY,
INC. (L.S.)

By Richard L. Mosterman
Its President

"LESSOR"

ATTEST:

Dale A. Crandall
Its Assistant Secretary

Luther W. Wooten
Luther W. Wooten

"LESSEE"

STATE OF ALA. SHELBY CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON 7/13/13
RECORDED & \$ 1.00 TAX
& \$ 1.00 DEED TAX HAS BEEN
PD. ON THIS INSTRUMENT.

Corcoran M. J. J. J.
JUDGE OF PROBATE