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Agreement of Lease, Made this 7th day of December 19 63 ,
between the ATLANTIC COAST LINE RAILROAD COMPANY, a corporation created and
existing under the Laws of Virginia, hereinafter called the Lessor, and ALABAMA AGGREGATE
COMPANY, Division of McCullough Industries, Inc., 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 Lessee, the following quantity of rail and other material, hereinafter called rails, to-wit:

Fifteen Hundred Sixty-Eight (1568) lineal feet 100-lb. rail, relay; Thirty-Three Hundred Sixteen (3316) lineal feet 80-lb. rail, relay; Forty-Three (43) pairs 100-lb. angle bars, relay; One Hundred Twelve (112) pairs 80-lb. angle bars, relay; Six Hundred Ninety-Three (693) 100-lb. tie plates, relay; One (1) 80-lb. No. 8 rigid bolted frog; One (1) 80-lb. 12-foot switch, complete, relay; Two (2) 80-lb. 11-foot guard rails, plates and braces, relay; Four (4) 80-lb. guard rail clamps, relay; One (1) 100-lb. No. 8 solid manganese frog, relay; One (1) 100-lb. 12-foot switch, complete, relay; Two (2) 100-lb. 11-foot guard rails, plates and braces, relay; Four (4) 100-lb. guard rail clamps, relay; Two (2) New Century switch stands, relay;

to be used by the Lessee in the ~~construction and~~ operation of railroad track facilities at Pelham, Shelby County, Alabama and for no other purposes whatsoever, the said track facilities being more fully described in agreement dated December 7, 1963 between the parties hereto.

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

1: The Lessee will pay to the Lessor, as rental for the use of said rails, (a) the sum of Four Hundred Fourteen and 72/100 - - - - - Dollars (\$ 414.72) per annum in twelve (12) equal installments, of Thirty-Four and 56/100 - - - - - Dollars (\$ 34.56) each, the first of which payments shall be and become due on the 1st day of January, 19 64, 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 or assessed 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.

2: 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 and operation of said track facilities, which said grant or easement 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 immediate right 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.

3: The Lessee, in constructing and maintaining track facilities with the rails hereby leased, will place under each thirty foot section of rail not less than sixteen 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

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now are, 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 ARTICLE SIX, provided.

4: The Lessee will indemnify and save harmless the Lessor against any and all claims, losses, or damages, including attorneys' fees in case of litigation, on account of the construction or maintenance of said track facilities upon the land of Lessee or 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.

5: 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 (i) 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; and (ii) the cost and expense including attorneys' fees that might arise from any litigation, to the Lessor of so removing said rails.

~~In the event that the surety on the bond of the Lessee hereunder shall, by notice to the Lessor, after the day 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 thereupon be terminated and at an end, without further or any notice by the Lessor to the Lessee.~~

6: 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, Shelby County, Alabama, and will pay for any shortage in the amount so delivered to the Lessor, including shortage of the kind mentioned in ARTICLE 3 hereof, at the rate of \$70.00 per ton of 2240 pounds, or aliquot part thereof, for rail and in sum of \$2,637.00 for the other material.

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

7: Unless terminated by Lessor as in ARTICLE 5 hereof provided, this lease shall continue in force and effect for the full term of One (1) Year, 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.

8: 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.

~~9. The Lessee shall execute and deliver unto the Lessor its bond in the penal 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.

10. This agreement cancels and supersedes one dated December 6, 1956, as supplemented April 21, 1958, between the Lessor and the Lessee covering lease of a portion of the said rails described herein.

NOTE: The following changes were made in this agreement prior to execution thereof:

Witness Clause: The words "construction and" eliminated.

Article 5: Second paragraph eliminated.

Article 9: Eliminated.

Article 10: Added. _____

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

Attest: _____

Assistant Secretary

WITNESSES:

As to
Lessor

A. E. Suman
W. M. Nichols

As to
Lessee

Elizabeth C. Green
Elizabeth C. Green
Jack E. Turner

ATLANTIC COAST LINE RAILROAD COMPANY

By

J. J. [Signature]
General Manager

Attest:

[Signature] (SEAL)
Asst. Secretary

W. T. MARABLE

ALABAMA AGGREGATE COMPANY,

Division of McCullough Industries, Inc.:

By:

[Signature] President

Attest:

[Signature] (SEAL)
Secretary

ALABAMA FORM

STATE OF FLORIDACOUNTY OF DUVAL

I, _____, a Notary Public in and for said County and State, hereby certify that _____, and _____ whose names as _____ and Asst. Secretary, respectively, of 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 _____ day of _____, 1964.

Notary Public.

My commission expires on the _____ day of _____, 19____.

ALABAMA FORM

STATE OF ALABAMACOUNTY OF JEFFERSON

I, WALTER FLECK, a Notary Public in and for said County and State, hereby certify that R. F. McCULLOUGH, and J. R. SHARMAN whose names as President and Secretary, respectively, of ALABAMA AGGREGATE COMPANY, Division of McCullough Industries, Inc., 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 20th day of Feb. 1964

Walter Fleck
Notary Public.

My commission expires on the 26th day of May, 1964.

~~Notary Public Seal~~

STATE OF ALA. SHELBY CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON 8 AM
21 1964
RECORDED & 5 MTG. TAX
& 3 DEED TAX HAS BEEN
PD. ON THIS INSTRUMENT.

Conrad M. Jankins
JUDGE OF PROBATE

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