

AGREEMENT

BETWEEN

USAC AND RUHRCHEMIE.

Agreement dated as of _____, 1938, made by and between HYDROCARBON SYNTHESIS CORPORATION, a corporation of the State of Delaware, hereinafter called "USAC", and RUHRCHEMIE AKTIENGESELLSCHAFT, a German company, hereinafter called "RUHRCHEMIE".

I. DEFINITIONS.

1. Wherever used in this agreement the term "Partner" shall mean one, and the term "Partners" shall mean all, of the following four groups:—

(1). "KELLOGG", that is, The M.W. Kellogg Company, a corporation of the State of Delaware, and its Wholly Owned Subsidiaries;

(2). "I.G.", that is, I.G. Farbenindustrie Aktiengesellschaft, a German company, and its Wholly Owned Subsidiaries;

(3). "STANDARD", that is, Standard Oil Company, a corporation of the State of New Jersey, and its Wholly Owned Subsidiaries;

(4). "SHELL", that is, N.V. Koninklijke Nederlandsche Maatschappij tot Exploitatie van Petroleumbronnen in Nederlandsch-Indie, a company of The Netherlands, and The "Shell" Transport and Trading Company Ltd., an English company, and Shell Union Oil Corporation and Shell Development Company, corporations of the State of Delaware, and their individually and jointly Wholly Owned Subsidiaries.

Subsidiaries Wholly Owned by two or more Partners jointly shall be deemed to have the same rights and obligations as the Partners to which they belong.

2. Certain other of the terms used herein shall have the meanings defined in Exhibit A attached hereto and hereby made a part hereof.

II.—RUHRCHEMIE'S HYDROCARBON SYNTHESIS RIGHTS.

1. RUHRCHEMIE and its Wholly Owned Subsidiaries hereby place and agree to place hereafter at the disposal of USAC, for exploitation in the United States and Canada, all their United States and Canadian Rights owned, acquired or controlled by them on or before December 31st, 1952, relating to the Hydrocarbon Synthesis Process. USAC's right to exploit these Rights shall be exclusive to and including December 31st, 1952. They hereby grant and agree to grant hereafter to USAC an exclusive license (excluding also the licensors) under such of the foregoing Rights as are patent rights, terminating December 31st, 1952, with the right up to said date to grant licenses thereunder, the patent rights to be made available to USAC's licensees for the entire life of the patents.

2. RUHRCHEMIE hereby warrants that its foregoing Rights embrace, among other things, the rights relating to the "Fischer Process" and the "Fischer Paraffin Synthesis" of the Studien- und Verwertungsgesellschaft m.b.H. in Mülheim/Ruhr, and of Geheimrat Professor Dr. Fischer, in Mülheim/Ruhr, and that said rights consist of the exclusive rights to all inventions and experience made up to October 27th, 1946, in the case of patents for their entire life. Said "Fischer Process" (Fischer-Tropsch-Ruhrchemie Process) is understood to mean processes for the production of gasolines

including gas fractions, oils, paraffin waxes, in short all products of a mineral oil character which, when from mixtures of hydrogen and carbon oxides, by catalysis without pressure or with low pressure and slight high pressure, are produced as Primary Product. Said "Fischer Paraffin Synthesis" understood to mean the process designed for production of paraffin wax, as described in the patent of the firm of Syndiesgesellschaft Nr. St. 55 126 IV c/12 of August 1st, 1936, and any supplementary amendments of Syndiesgesellschaft. RUHRCHEMIE declares that it has an option to prolong for five years after October 27th, 1940 on terms to be agreed upon at that time its interest in the Rights mentioned in the paragraph 2 mentioned, and agrees that it will not permit said option to lapse without consulting with USAC.

III. RUHRCHEMIE'S SYNTHESIS GAS PRODUCTION RIGHTS.

RUHRCHEMIE and its Wholly Owned Subsidiaries hereby agree to place at the disposal of USAC, on reasonable terms and for the same duration as specified in Article II hereof, RUHRCHEMIE'S Hydrocarbon Synthesis Rights, for exploitation in the United States and its Possessions, United States and Canadian Rights owned, acquired or controlled by them on or before January 1, 1942, relating to Processes for the Production of Synthesis Gas. They shall not permit any third parties unless after a reasonable period USAC shall have failed to accept such Rights made term by RUHRCHEMIE on the same terms obtainable by RUHRCHEMIE from third parties.

IV. RUHRCHEMIE'S EXPERIENCE.

Within 30 days after the signing of this agreement by USAC, RUHRCHEMIE agrees to submit to USAC in the form of an extensive general report all its present technical knowledge, experience and data in the field of the Hydrocarbon Synthesis. This report shall, if the inclusion of certain details is not possible, in any case be based on the material available to RUHRCHEMIE. Further details as well as all other technical knowledge, inventions and data in the field of the Hydrocarbon Synthesis, shall, within fourteen (14) days after receipt of the report, be communicated under subdivision of paragraph I of Article VII. hereof, be communicated to USAC in conversations with the experts of RUHRCHEMIE with the aid of interpreters, which are to be handed over at that time.

V. CO-OPERATION WITH USAC.

RUHRCHEMIE and its Wholly Owned Subsidiaries agree to develop the Hydrocarbon Synthesis to suit the special requirements of USAC. RUHRCHEMIE hereby agrees, at the request of USAC, to advise USAC of the progress of its research and experience which RUHRCHEMIE shall have acquired in the development, setting up and carrying out of a research programme.

RUHRCHEMIE agrees, at the request of USAC and to the extent possible, to deliver to USAC all technical data and documents available, and carry out development work for the special requirements of USAC. RUHRCHEMIE shall receive from USAC a reasonable special compensation for the use of its technical data and documents.

RUHRCHEMIE shall inform RUHRCHEMIE at regular intervals concerning the development of the Synthesis and its exploitation.

VI. USAC'S LICENSING POLICY.

USAC shall grant licenses for the Hydrocarbon Synthesis Process in the United States at reasonable rates to all interested responsible oil companies and other owners of quantities of natural or cracking gas.

USAC shall grant a Partner for a license from USAC on a definition of the Hydrocarbon Synthesis other than the definition under which the Partner in question shall have placed its Rights at the disposal of USAC shall be granted only on condition that

the Partner to which such license shall be granted shall grant to USAC a royalty-free license for the entire world, with the right to grant licenses thereunder, on a definition of the Hydrocarbon Synthesis Process and as that contained in the license requested by it.

3. USAC shall in granting licenses endeavour to obtain back from the licensee a royalty-free (if possible exclusive) for the entire world with the right to grant licenses thereunder, on a definition of the process in question as broad as the definition in the license which it grants.

4. USAC shall place at the disposal of I.G. exclusively all of its German Rights owned, acquired or controlled by it on or before December 31st, 1952, relating to the Hydrocarbon Synthesis Process for the Production of Synthesis Gas. It shall grant to I.G. an exclusive license under the foregoing Rights as are patent rights, for the entire life of the patents with the right to grant licenses thereunder. I.G. shall, however, in granting such licenses endeavour to obtain from its licensees a royalty-free license (if possible, exclusive) with the right to grant licenses thereunder, for the entire world, on a definition of the process in question as broad as the definition in the license which it grants.

VII. PAYMENTS TO RUHRCHEMIE.

1. RUHRCHEMIE shall receive from USAC for making available its patent rights in the United States and Canada and for placing its experience at the disposal of USAC, as well as the undertaking of the other obligations set forth in this agreement with respect to the United States and Canada the following payments:

(a) Seventy-five Thousand Dollars (\$75,000, United States currency), free from all United States taxes, within fourteen (14) days after receipt of the report provided for in paragraph 1, sub-division (c).

(b) Seventy-five Thousand Dollars (\$75,000, United States currency), free from all United States taxes, one year after the date of the payment under (a) above;

(c) Four Ton of Primary Product produced in the period up to January 1st, 1953, under license from USAC, payable within forty-five (45) days after USAC has received the royalty payment provided for in sub-division (a).

(d) Six cents (6¢) for production of Partners and their Ratifying Subsidiaries and twelve and one-half cents (12.5¢) for production of others, but only until RUHRCHEMIE shall have received an aggregate amount of One Million Five Hundred Thousand Dollars (\$1,500,000) including the amounts mentioned under (a) and (b).

(e) After RUHRCHEMIE shall have received the aggregate amount of One Million Five Hundred Thousand Dollars (\$1,500,000), four cents (4¢) for production of Partners and their Ratifying Subsidiaries and ten cents (10¢) for production of others, but only until RUHRCHEMIE shall have received an aggregate amount of Two Million Five Hundred Thousand Dollars (\$2,500,000), including the amounts mentioned under (a) and (b) of this paragraph 1;

(f) After RUHRCHEMIE shall have received the aggregate amount of Two Million Five Hundred Thousand Dollars (\$2,500,000), five cents (5¢), but only for production of others than the Partners and their Ratifying Subsidiaries.

2. Notwithstanding the foregoing provisions of paragraph 1, sub-division (c), clauses (1) and (2) hereof shall be made to RUHRCHEMIE for production of the Partners and their Ratifying Subsidiaries under the following licenses from USAC:

(a) A license for one single plant for production of not more than two hundred thousand (200,000) Tons of Primary Product yearly;

(b) In addition to the license provided for in sub-division (a) of this paragraph 2, licenses for the production of altogether not more than one million five hundred thousand (1,500,000) Tons of Primary Product yearly, as soon as RUHRCHEMIE shall have received the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) provided for in paragraph 1, sub-division (c), clause (1).

3. When licenses are granted by USAC against a paid-up royalty, RUHRCHEMIE shall pay a paid-up amount, which, based on the royalties set out in paragraph 1, sub-division (c), shall be calculated for the same number of years and the same yearly capacity as are taken vis-a-vis to USAC for calculating its paid-up royalty. In this connection it is to be noted that the paid-up amount for RUHRCHEMIE shall not be calculated on the basis of a smaller number of years than is customary in the American mineral oil industry for the buying off of running royalties and shall not be calculated on a basis of less than four years; nevertheless RUHRCHEMIE declares itself ready to consult with USAC in special cases as to whether it appears advisable to take a smaller number of years as a basis. Any running royalty which shall have already been paid may be deducted from the amount of ninety days' production in cases where a licensee on a running royalty basis decides to buy off his royalty basis in part.

The amounts to be paid to RUHRCHEMIE under this Article VII are to be paid in American dollars with the exception, however, that a certain part of the amounts provided for in paragraph 1, sub-division (c) shall be paid to RUHRCHEMIE by I.G. in Reichsmarks pursuant to agreement with them, as directed by USAC.

RUHRCHEMIE shall have the right, at any reasonable time, at its own expense, and through the aid of Ernst & Young, Waterhouse, or any other recognized auditing firm chosen by USAC and RUHRCHEMIE, to check the books and other records of USAC insofar as they form the basis for the calculation of the amounts to be paid by USAC to RUHRCHEMIE hereunder.

The licenses for RUHRCHEMIE described in paragraph 1 (c) of this Article as payable to USAC by I.G. and their Running Subsidiaries under license from USAC shall insofar as they concern the Hydrocarbon Synthesis Process for the purpose of producing Hydrocarbons of the type described in paragraph 1 (a) be payable only upon operations under license from USAC but also upon operations under license from their Running Subsidiaries using such process for such purpose. The licenses shall be valid for the entire term of all patents of USAC and are conducted

VIII. EXISTING OPTION UNAFFECTED.

USAC hereby warrants that it has not given any options nor closed any license contracts nor made any similar commitments for the Hydrocarbon Synthesis Process in The Netherlands or elsewhere other than the option contract mentioned in Exhibit B, hereto attached and that it has not entered into or entered into any license contracts which may arise therefrom. RUHRCHEMIE agrees that the option has a duration which does not extend beyond March 31st,

1937. USAC shall not enter into license contracts which may result from it as well as any mathematically calculated capacity which may have been provided for in said option contract. Licensees under such license contracts shall have no claims to any part of the experience of USAC unless they make special agreements therefore with USAC, or unless it is otherwise agreeable in principle. Conversely, USAC shall have no claim to the experience or knowledge, inventions and experience coming to it from USAC, N.V. INTERNATIONALE HYDROGENEERING, SOETROOIJEN, MAATSCHAPPIJ (INTERNATIONAL HYDROCARBON PATENTS COMPANY), or N.V. INTERNATIONALE KÖOL-MAATSCHAPPIJ (INTERNATIONAL HYDROCARBON PATENTS COMPANY).

IX. WORKING UP OF HYDROCARBONS.

USAC and RUHRCHEMIE, under the Hydrocarbon Synthesis Process for licenses to work up the Primary Product for chemical purposes, USAC and RUHRCHEMIE and its Wholly Owned Subsidiaries shall be entitled to grant the reasonable terms to such licensees such licenses as may be necessary for the working up of the Primary Product to marketable finished products for other than chemical purposes. It is the policy of USAC and RUHRCHEMIE normally grant such licenses to third parties, and in the event of the question they are entitled to do so. The foregoing applies to existing as

as well as future licensees under the Hydrocarbon Synthesis. If and to the extent that RUHRCHEMIE and USAC shall have delegated the licensing of their patent rights in this connection to licensing companies, they hereby agree to use their best efforts to cause such licensing companies to make such rights available to the licensees in question on reasonable terms.

X.—CO-OPERATION CONCERNING PATENTS.

1. RUHRCHEMIE hereby agrees that it will inform USAC promptly of the filing in Germany or in any other country, wherever filed first, of any application for a patent belonging to it or to its Wholly Owned Subsidiaries covering an invention relating to the Hydrocarbon Synthesis Process, that it will furnish USAC promptly with a copy of such first application, and that before a corresponding application for patent is made in the United States or Canada it will give full opportunity to USAC to make suggestions relating thereto. RUHRCHEMIE further hereby agrees that it will furnish USAC promptly with copies of all documents received from the Patent Offices in the United States and Canada and will give full opportunity to USAC to make suggestions relating to answering these documents well in advance of the time said answers are due. If RUHRCHEMIE is not inclined to file a patent application in the United States or Canada on a certain invention relating to said process it nevertheless hereby agrees to do so at the request of USAC and duly prosecute said application to issue or patent.

2. All ordinary expenses arising from the date of this agreement and up to and including December 31st, 1952 in applying for patents of RUHRCHEMIE relating wholly or principally to the above process in the United States and Canada, including the further prosecution in the United States and Canadian Patent Offices thereof, and of patent applications of RUHRCHEMIE in existence at the date of this agreement, shall be borne by USAC. The foregoing also applies to those patent applications covering inventions relating not wholly or principally to said process but which though not in said process are also useful to a substantial degree in other processes and which are filed in accordance with the provisions of the last sentence of the preceding paragraph by RUHRCHEMIE at the request of USAC, and any further expenses incurred as a result of steps requested by USAC shall be borne by USAC.

3. If in the opinion of USAC it shall become necessary or desirable to prosecute any suit for infringement of any of the aforesaid United States or Canadian patents belonging to RUHRCHEMIE or its Wholly Owned Subsidiaries, RUHRCHEMIE hereby agrees that it will at the request and at the expense of USAC become a party to any such suit or that it will permit USAC to bring such suit in the name of RUHRCHEMIE. All benefit of the recovery in any such suit shall belong to USAC, except that if such recovery shall be less than the expenses incurred in connection with such suit, then the net recovery which bears the same relation to the total net recovery as the amount paid to RUHRCHEMIE by USAC on a normal license bears to the royalty

XI.—CHANGES IN WHOLLY OWNED SUBSIDIARIES.

The Wholly Owned Subsidiaries which shall have at any time become subject to the provisions of this agreement shall not thereafter lose their rights nor be relieved of their obligations hereunder by reason of a change in their status.

XII.—RUHRCHEMIE'S AGENCY ARRANGEMENT.

RUHRCHEMIE'S agency arrangement with Process Management Company shall be taken over by USAC but RUHRCHEMIE represents that this agency arrangement will be terminated three months after this agreement has become effective.

XIII.—NON-DISCLOSURE OF INFORMATION.

USAC and RUHRCHEMIE hereby agree to take all reasonable precautions to prevent disclosure of technical knowledge and experience relating to the Hydrocarbon Synthesis Process beyond the normal and legitimate conduct of their respective businesses.

(2)

XIV.—HARDSHIP CLAUSE.

If during the life of this agreement it shall appear that the performance of any obligation herein would impose particular hardship upon a party, the parties shall after consideration of the reasons and circumstances presented by the party in question consult as to how its difficulties may be solved in a fair manner. The question whether such particular hardship exists shall, if necessary, be arbitrated in accordance with the provisions of Article XVI hereof.

XV.—DURATION AND TERMINATION.

1. This agreement shall terminate on December 31st, 1952.

2. In the event that after this agreement has run for five years the Partners shall not have built any production plants in the United States or Canada except for a first research plant and that USAC has not after this agreement has run for seven years granted any license to third parties for the United States or Canada, the contracting parties shall consult as to whether this agreement can be prematurely terminated or changed as to its terms.

XVI.—ARBITRATION.

All controversies arising in connection with this agreement shall be decided with binding effect by three arbitrators in accordance with the Arbitration Rules of the International Chamber of Commerce. One arbitrator shall be appointed by RUHRCHEMIE and one by USAC. The third arbitrator shall be determined by the arbitration court in accordance with Article 12 of the Arbitration Rules.

XVII.—GENERAL PROVISIONS.

1. Neither this agreement nor the use of the word Partner herein nor anything else herein contained shall be deemed to create a partnership relation. The titles of the articles shall not be construed as a part of this agreement.

2. This agreement is personal in its nature and no party shall without the consent of the other assign or transfer its rights or obligations hereunder except to a successor of substantially the whole of its business and except that money claims hereunder may be assigned provided that the assignee shall have no right to verify the amount of royalties due, as the determination of such amounts is to be made only by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the day and year first above written.

HYDROCARBON SYNTHESIS CORPORATION.

RUHRCHEMIE AKTIENGESELLSCHAFT.