### **AGREEMENT**

BETWEEN

## I.H.P. - RUHRCHEMIE - I.H.S.

ARTIENGESELLSCHAFT, a German company, hereinafter called "RUHRCHEMIE", N.V. INTERNATIONALE HYDROGENEERINGSOCTROOIEN MAATSCHAPPIJ (INTERNATIONAL HYDROGENATION PATENTS COMPANY), a company of The Netherlands, hereinafter called "LH.P.", and N.V. INTERNATIONALE KOOLWATERSTOFFEN SYNTHESE MAATSCHAPPIJ (INTERNATIONAL HYDROCARBON SYNTHESIS COMPANY), a company of The Netherlands, hereinafter called "LH.S.".

#### 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, The "Shell" Transport and Trading Company, Ltd., an English company, Shell Union Oil Corporation and Shell Development Company, corporations of the State of Delaware, and their jointly and individually 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.—HYDROCARBON SYNTHESIS RIGHTS OF RUHRCHEMIE AND I.H.P.

1. RUHRCHEMIE and I.H.P. and their respective Wholly Owned Subsidiaries hereby place and agree to place hereafter at the disposal of I.H.S. exclusively and royalty-free all their Rights relating to the Hydrocarbon Synthesis Process for all countries of the world excluding the United States, Canada, Germany and those countries or parts of countries in which RUHRCHEMIE has alienated its Rights relating to the Hydrocarbon Synthesis Process or has granted an exclusive license thereunder, and excluding as well the territories to which such exclusive license may be extended by the licensee. They also hereby assign and agree to assign hereafter to I.H.S. such of the foregoing Rights as are patent rights, for the entire life of the patents. Wherever the territory for which the patent rights are so to be assigned consists of only a part of a country, it shall be sufficient for effecting their transfer to grant an exclusive license to I.H.S. with the right to grant licenses thereunder for the

fail life of the patents. If and so long as any such assignment of patent rights by RUHRCHEMIE to L.H.S., would prevent the granting of an exclusive license by RUHRCHEMIE in a country for which it has already given an option for an exclusive license not contained in an existing license contract, no assignment thereof shall be required of either RUHRCHEMIE or I.H.P. If the patent right so to be assigned is useful to a substantial degree in other process than the Hydrocarbon Synthesis, an exclusive heense for the life of the patent, with the right to grant licenses thereunder, covering Any country in which RUHRCHEMIE has granted a non-exclusive license containing an option to convert the heense into an exclusive license shall be deemed to be a country in which RUHRCHEMIE the exercise of such option as well as prior to such exercise unless in the latter case RUHRCHEMIE shall expire without having been exercised, the country to which it is applicable shall not thereafter an exclusive license. Nothing in this paragraph contained shall be construed to prevent RUHRCHEMIE from fulfilling its obligations under options and license contracts already granted by it.

- 2. LHP, hereby warrants that it has in the countries for which LHS, obtains Rights by any patent rights therein included, the exclusive right to dispose of the Rights of the Partners and of NV INTERNATIONALE MAATSCHAPPIJ VOOR HYDREERINGS-TECHNIEK EN -CHEMIE Company of The Netherlands, relating to the Hydrocarbon Synthesis Process for the purpose of producing 16, to use, and each to license its Ratifying Subsidiaries to use, its own Rights.
- 3. RUHRCHEMIE hereby warrants that its Rights, referred to in paragraph I hereof, embrace, among other things, the rights relating to the "Fischer Process" and the "Fischer Paratin Synthesis" of the Studien- und Verwertungsgesellschaft m.b.H., in Mülheim/Ruhr, and of Geheimrat Professor in Historie in Mullieim Ruhr, and that said rights consist of the exclusive rights to all inventions between made up to October 27th, 1946, in the case of patents for their entire life. Said the production of gasolines, including gasol fractions, oils, parathn waxes, in short all products of a processive or with low pressure or slight high pressure, are produced as Primary Product. Said the process in the patent application of Studiengesellschaft Nr. St. 55 126 IV.c/12 of August 1st, and extend any supplementary applications of Studiengesellschaft. RUHRCHEMIE declares that it is in the Rights hereinabove in this paragraph 3 mentioned, and agrees that it will not
- If RUBRUHEMIE or I.H.P. see an opportunity to grant further licenses under the Hydrolicense it and Process in any country outside U.S.A., Canada and Germany for which I.H.S. receives the Process this would make it difficult to do the business, appoint I.H.S., upon reasonable

# III. SYNTHESIS GAS PRODUCTION RIGHTS.

RUTTRE HEMIE and THEP and their respective Wholly Owned Subsidiaries hereby declare conserves willing to make available to the licensecs of LHS. RUHRCHEMIE or LHP, on reasonable containing hydrocarbons. LHS and RUHRCHEMIE shall recommend such processes to their stress and other interested parties for use in conjunction with the Hydrocarbon Synthesis Process. If It hereby warrants that it has at its disposal the rights of the Partners required for the fulfilment.

#### IV.—CO-OPERATION OF PARTIES.

- 1. In order to assure a fair competition in every respect between them, I.H.P. and I.H.S. hereby agree to co-operate to the fullest extent possible with mutual confidence. In particular, they shall co-ordinate their publicity and advertising in such a manner as not to prejudice unduly each other's interests. To this end a current exchange of ideas shall take place between their technical experts in order that every prospective user of their processes shall, upon inquiry by it, be advised in the most objective and impartial manner.
- 2. I.H.S. and I.H.P. shall keep each other currently informed concerning inquiries and negotiations with respect to the licensing of the Hydrocarbon Synthesis and the Hydrogenation insofar as the income therefrom should be pooled in accordance with this agreement.

#### V .-- POOLING.

- 1. (a) I.H.S. and I.H.P. hereby agree to create a pool as soon as possible after the end of each year for income from countries for which I.H.S. acquires Rights pursuant to paragraph 1 of Article II. hereof, it being understood that this shall be deemed to include countries in which an assignment of patent rights to I.H.S. is not for the time being required for the reason that such assignment would prevent the granting of an exclusive license by RUHRCHEMIE for which RUHRCHEMIE has already given an option not contained in an existing license contract. Into this pool shall flow all the licensing income of I.H.S. received from the licensing of the Hydrocarbon Synthesis and all the licensing income of I.H.P. received from the licensing of the Hydrogenation of solid carbonaceous materials (as, for example, coal, brown coal, peat and wood) and their direct derivatives (as, for example, tars and tar oils) for the purpose of producing Major Products other than fuel oil. (In this field, all present and future inventions, patent rights and experience of, among others, STANDARD, SHELL and I.G. and their individually and jointly Wholly Owned Subsidiaries, arising up to December 31st, 1947, are at the disposal of I.H.P. exclusively, for exploitation). There shall be no pooling of licensing income from Hydrogenation of mineral oils, shale oils and polymerization products.
- (b) The foregoing income shall be pooled insofar as the license contracts come into being on or after March 1st, 1938. However, a mathematically or geographically limited right for enlargement of the license provided for in a license contract closed by I.H.P. or RUHRCHEMIE and existing prior to March 1st, 1938, shall be regarded, for the purpose of this agreement, as a license contract existing prior to March 1st, 1938, regardless of the time of the enlargement. Exhibit B hereto attached and hereby made a part hereof sets forth the license contracts the income from which is not to be pooled in accordance with the foregoing. In cases where licensing income from the Hydrocarbon Synthesis shall not be pooled, RUHRCHEMIE shall hold all technical knowledge, inventions and experience coming from Hydrocarbon Synthesis Corporation, a corporation of the State of Delaware, hereinafter called "USAC", I.H.S. and I.H.P. strictly secret from the licensees in question.
- (c) All income connected with the licensing, as for example, interest on licensing income and damages for patent infringement, is to be considered as licensing income for the purpose of this paragraph 1.
- (d) Fees for engineering services shall not be pooled, but such fees shall be reasonable and in no case higher than those shown in Exhibit C hereto attached and hereby made a part hereof.
- (e) I.H.P. states that it has a contract with Imperial Chemical Industries, Limited, an English company, hereinafter called "I.C.I.", pursuant to which I.H.P. has the exclusive right to license the inventions, experience and patent rights made or acquired by I.C.I. up to December 31st, 1947, in the field of Hydrogenation for the purpose of producing Major Products. Consequently the income which I.H.P. is to bring into the income pool pursuant to this paragraph I shall include also income for which I.C.I.'s inventions, patent rights or experience may be entirely or partly responsible. I.H.P., in return, has agreed to pay I.C.I. a certain amount which can in no case exceed ten per cent (10%) of its licensing income from Hydrogenation of solid carbonaceous materials regardless of whether in any given case any inventions, patent rights or experience originating with I.C.I. are used. Said payment to I.C.I. is limited to a certain maximum amount which depends on the extent to which I.C.I. pool the amount to be paid to I.C.I.

- (f) If I.H.P. should license the Hydrogenation process jointly with other processes, the part of the total royalty from the combined license which is ascribable to the Hydrogenation process shall be determined in a fair manner in each case. It is agreed that if I.H.P. should license a hydrogen production process together with the Hydrogenation, thirty-five per cent (35%) of the total royalty shall be considered as compensation for the hydrogen production process and sixty-five per cent (65%) as compensation for the Hydrogenation process.
- (g) With respect to income from certain license contracts arising by reason of options already granted by RUHRCHEMIE, referred to in paragraph 3 (b) of this article, only that percentage of such income which is specified in said paragraph shall be pooled.
  - 2. (a) The pooled amounts shall be distributed between I.H.S. and I.H.P. as follows:-

From the first amounts to be pooled up to an amount of One Million Six Hundred Thousand Dollars (\$1,600,000)

Seventy per cent (70%) to I.H.S.

Thirty per cent (30%) to I.H.P.

From the further amounts to be pooled up to an amount of Eight Hundred Thousand Dollars (\$500,000) of such further amounts ...

Sixty per cent (60%) to I.H.S. and

and thereafter Forty per cent (40%) to I.H.S. and Sixty per cent (60%) to I.H.P.

Forty per cent (40%) to I.H.P.

- (b) I.H.P. and I.H.S. shall account to each other at the end of each fiscal year and each shall permit such accounting to be checked by a recognized auditing firm. The firm of Paice Waterhouse shall be taken for this purpose unless I.H.P. and I.H.S. agree upon another firm.
- 3. (a) All license contracts for the Hydrocarbon Synthesis that shall hereafter arise by reason of options granted by RUHRCHEMIE and existing on the date of the execution of this agreement shall be made by and in the name of I.H.S., unless the option holder is unwilling to contract on such passes or unless I.H.P. would for any reason refuse the inclusion of such option holder in the exchange of patent rights, inventions and experience with I.H.S. If I.H.P. refuses such inclusion or the option holder refuses to be included in the above-mentioned exchange, RUHRCHEMIE shall hold all technical knowledge, inventions and experience coming to it from USAC, I.H.S. or I.H.P. strictly secret from the licensee in question; and the license in question shall, with respect to patent rights of I.H.S., be
- (b) Income from license contracts that arise by reason of options granted by I.H.P. or the income pool provided for in paragraph 1 (a) of this article and shall be distributed between I.H.P. and I.H.S. in accordance with the key established in paragraph 2 (a) of this article. However, income patent rights, inventions and experience with I.H.S. is refused by I.H.P. or by the option holder, as (50%). Income from any mathematically or geographically limited rights to enlargement of licenses shall take place.
- 4. RUHRCHEMIE hereby agrees, before making in its own name a license contract based upon an option, to endeavour to take the necessary measures to make the percentage of the license income which is to be pooled payable by the licensee direct to I.H.S. in Holland.
- 5. RUHRCHEMIE and I.H.P. respectively hereby agree not to disturb in any way the other's negotiations with its optionholders.

## VI.-LICENSING POLICY OF I.H.S.

- 1. I.H.S. shall, in general, license the Hydrocarbon Synthesis Process at reasonable rates to every interested party in the countries for which I.H.S. shall obtain Rights pursuant to Article II. hereof. It shall carry out no research work.
- 2. I.H.S. shall, in granting licenses, endeavour to obtain back from the licensee a royalty-free license (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.
- 3. Any request by a Partner for a license from L.H.S. on a definition of the Hydrocarbon Synthesis which is broader than the definition under which the Partner in question shall have placed its Hydrocarbon Synthesis Rights at the disposal of I.H.P. shall be granted only on condition that the Pastner to which such license shall be granted shall grant to I.H.P. a royalty-free license for the entire world, with the right to grant licenses thereunder, on a definition of the Hydrocarbon Synthesis as broad as that contained in the license requested by it.
- 4. I.H.S. hereby assigns and agrees to assign hereafter to I.H.P. all its Rights relating to the Hydrocarbon Synthesis Process in all countries (except The United States and Canada) in which RUHRCHEMIE has alienated its rights relating to the Hydrocarbon Synthesis Process or has granted

### VII.—GERMAN CONSTRUCTION FIRMS.

I.H.S. takes note that German firms engaged in the construction of apparatus already possess special experience in the construction of apparatus for the Hydrocarbon Synthesis and that RUHRCHEMIE is desirous that these firms engaged in the construction of apparatus, in view of their past co-operation in the development of the Hydrocarbon Synthesis, shall continue to be given due regard in connection with the construction of such apparatus. These firms shall therefore be recommended to the licensees as bidders insofar as they are able to deliver apparatus which is as effective as that produced by other firms.

## VIII.-WORKING UP OF HYDROCARBONS.

Upon any request from licensees under the Hydrocarbon Synthesis Process for licenses to work up hydrocarbons for other than chemical purposes I.H.S., I.H.P. and RUHRCHEMIE hereby agree with the another to grant on reasonable terms to such licensees such licenses as may be required to work up the Primary Product to marketable finished products for other than chemical purposes, to the extent that I.H.S., I.H.P. and RUHRCHEMIE normally grant such licenses to third parties and insofar as at the time in question they are entitled to do so. The foregoing applies to existing as well as future licensees in the field of the Hydrocarbon Synthesis. If and to the extent that I.H.S., I.H.P. and RUHRCHEMIE 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.

# IX.—MAKING AVAILABLE OF RUHRCHEMIE PERSONNEL.

With regard to conducting the business of I.H.S., it is agreed that the personnel of RUHRCHEMIE hitherto engaged in such business for RUHRCHEMIE and the experience thereby accumulated by RUHRCHEMIE, especially in advertising the Hydrocarbon Synthesis Process, shall be made available to the fullest extent on reasonable terms. In particular, the preparation of offers to be made to the interested parties as well as the providing of plans for plants to be built shall be mainly RUHRCHEMIE'S task. Full advantage shall be taken of RUHRCHEMIE'S experience in handling patent matters relating to the Hydrocarbon Synthesis Process.

# X.—RUHRCHEMIE'S PRESENT REPRESENTATIVES.

It is understood that RUHRCHEMIE has engaged representatives in a number of countries and in some other cases has authorized intermediaries for certain specified projects, both having been promised a certain commission. RUHRCHEMIE represents that these agreements do not in general run beyond the middle and never beyond the end of 1939. It is agreed that in cases where considerable

work by a representative justifies it, the agreement with the representative is to be extended for a certain reasonable period beyond the middle or end of 1939. RUHRCHEMIE represents that with very few exceptions (cases in which special circumstances justify a higher commission) the promised commission is around three to four per cent. of the amount of the license and is in all cases payable only where the royalties due by the licensee are received. RUHRCHEMIE will provide full data concerning these agreements with representatives as soon as possible.

### XI.—RUHRCHEMIE'S HYDROGENATION RIGHTS.

The contracting parties acknowledge that the commercialization of the Hydrogenation is exclusively the concern of I.H.P. and that the commercialization of the Hydrocarbon Synthesis is exclusively the concern of I.H.S. RUHRCHEMIE and its Wholly Owned Subsidiaries hereby agree to assign to I.H.P. without consideration all their Rights for the world outside of Germany arising after the execution of this agreement relating to that part of Hydrogenation the income from which is to be pooled pursuant to Article V. hereof. RUHRCHEMIE and its Wholly Owned Subsidiaries agree to give I.H.P. the first refusal of their Rights already existing relating to Hydrogenation on the same terms obtainable from third parties. RUHRCHEMIE and its Wholly Owned Subsidiaries hereby agree to give I.H.P. the first refusal, on the same terms obtainable from third parties, of Rights relating to apparatus and auxiliary processes which are or shall be developed by RUHRCHEMIE or its Wholly Owned Subsidiaries for other purposes than Hydrogenation, but which can also be used for the Hydrogenation. The first refusal hereby granted to I.H.P. shall be exercised, if at all, within a reasonable time.

#### XII.—NON-DISCLOSURE OF INFORMATION.

The contracting parties 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.

#### XIII.—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 paragraph 2 of Article XVII. hereof.

### XIV.—CO-OPERATION CONCERNING PATENTS.

- 1. RUHRCHEMIE and I.H.P. and their respective Wholly Owned Subsidiaries hereby undertake to co-operate fully with I.H.S. in obtaining and maintaining for I.H.S. the best possible patent protection. In the territory where I.H.S. will acquire hereunder patent rights from RUHRCHEMIE and I.H.P. and insofar as inventions relating wholly or principally to the Hydrocarbon Synthesis Process are concerned, and if RUHRCHEMIE or I.H.P. shall be themselves entitled to take out patents therefor in their own name, I.H.S. shall be entitled to apply for patents and to have the same registered in its own name. RUHRCHEMIE and I.H.P. respectively hereby agree at the request of I.H.S. (a) to cause to be filed applications for patents covering inventions which though useful in the said process are also useful to a substantial degree in other processes, or inventions for which RUHRCHEMIE or I.H.P. shall not be entitled themselves to take out patents in their own name but to the benefit of part of which I.H.S. is entitled hereunder. (b) duly to prosecute or cause to be duly prosecuted such applications and (c) to maintain or cause to be maintained the patents granted thereon.
- 2. If in the opinion of I.H.S. it shall be necessary or desirable to prosecute any suit for infringement of any of the aforesaid patents of RUHRCHEMIE and I.H.P., RUHRCHEMIE and I.H.P. each hereby agrees that it will at the request and at the expense of I.H.S. become a party to any such suit or that it will permit I.H.S. to bring such suit in either or both of their respective names. All benefit of the recovery in any such suit shall belong to I.H.S.

- 3. The expenses arising from the date of this agreement in making and prosecuting applications for patents and in maintaining patents standing in I.H.S.'s name, and the expenses incurred as a result of any request of I.H.S. to file and prosecute applications for or to maintain patents, shall be borne by I.H.S.
- 4. If I.H.S. declines to take out or to maintain a patent covering an invention originating with RUHRUHEMIE or its Wholly Owned Subsidiaries, RUHRCHEMIE shall have the right to take our or maintain such patent, but no such shifting of the burden of expense shall affect the substantial rights of I.H.S. under such patent pursuant to this agreement.
  - 5. All expenses of assignment of patents to I.H.S. shall be borne by it.

# XV.—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.

## XVI. DURATION AND TERMINATION

- 1. This agreement shall terminate on December 31st, 1952.
- 2. The continuation of this agreement beyond December 31st, 1047, is based upon the condition that the co-operation of STANDARD, SHELL and I.G. and their individually and jointly Wholly Owned Subsidiaries in Hydrogenation, as referred to in the third sentence of paragraph I (a) of Article V hereof, will be continued in such a manner that the position of RUHRCHEMIE hereunder subsequent to said date will not be prejudiced as compared with its position prior thereto. If such co-operation is not continued at is continued in such a manner as to prejudice RHURCHEMIE'S position as aforesaid, this agreement shall be of force and effect only through December 31st, 1947.
- 3. Notwithstanding the termination of this agreement under either paragraphs Lor 2 of this Article income arising from license contracts made by I.H.S. and I.H.P. during the life of this Agreement shall after the termination of this agreement, continue to be pooled and distributed in the namer provided for in Article V hereof:

# XVII WHAT LAW GOVERNS. ARBITRATION.

- 1. The law of The Netherlands shall apply to this agreement and to the legal relations between the contracting parties. The titles of the articles shall not be construed as a part of this agreement.
- 2. All controversies arising in connection with this contract shall be decided with binding effect in accordance with the Rules of Arbitration of the International Chamber of Commerce by three arbitrator. One arbitrator shall be appointed by RUHRCHEMIE and one by LHP. The third of the Rules of Arbitration. LHS, expressly acknowledges that its interests in connection with any arbitration are duly protected by the foregoing arrangement.

## XVIII.—GENERAL PROVISIONS.

- 1. Wherever in this agreement I.H.P. or RUHRCHEMIE undertakes an obligation vis-a-vis 1.H.S. it shall be deemed to be also an obligation vis-a-vis the other party hereto, and shall be enforceable not only by I.H.S. but also by such other party independently or in conjunction with I.H.S.
- 2. Neither this agreement nor the use of the word Partner herein nor anything else herein contained shall be deemed to create a partnership relation.

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

RUHRCHEMIE AKTIENGESELLSCHAFT.

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N.V. INTERNATIONALE HYDROGENEERINGSOCTROOIEN MAATSCHAPPIJ (INTERNATIONAL HYDROGENATION PATENTS COMPANY).

N.V. INTERNATIONALE KOOLWATERSTOFFEN SYNTHESE MAATSCHAPPIJ (INTERNATIONAL HYDROCARBON SYNTHESIS COMPANY).