

# AGREEMENT

BETWEEN

**I.H.S. AND PARTNERS.**

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**Agreement** dated as of \_\_\_\_\_, 1938, made by and between N.V. INTERNATIONALE KOOLWATERSTOFFEN SYNTHESE MAATSCHAPPIJ (INTERNATIONAL HYDROCARBON SYNTHESIS COMPANY), a company of The Netherlands, hereinafter called "I.H.S.", and —

1. THE M.W. KELLOGG COMPANY, a corporation of the State of Delaware, and its Wholly Owned Subsidiaries (together hereinafter called "KELLOGG");

2. N.V. DE BATAAFSCHE PETROLEUM MAATSCHAPPIJ, a company of The Netherlands, warranting that for the purpose of this agreement all the following named companies will make available their rights and assume the obligations intended to be placed upon them under this agreement, said companies being 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 (together hereinafter called "SHELL");

3. STANDARD-I.G. COMPANY, a corporation of the State of Delaware, warranting that for the purpose of this agreement all the following named companies will make available their rights and assume the obligations intended to be placed upon them under this agreement, said companies being STANDARD OIL COMPANY, a corporation of the State of New Jersey, and its Wholly Owned Subsidiaries (together hereinafter called "STANDARD"), and I.G. FARBENINDUSTRIE AKTIEN-GESELLSCHAFT, a German company, and its Wholly Owned Subsidiaries (together hereinafter called "I.G.");

STANDARD, SHELL, KELLOGG and I.G. are each hereinafter sometimes referred to as "a Partner" or collectively as "the Partners".

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

## I. DEFINITIONS.

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

## II. PAYMENT OF ROYALTIES.

1. I.H.S. hereby agrees that STANDARD, SHELL and their Ratifying Subsidiaries shall always be entitled to receive from it licenses for the use of the Hydrocarbon Synthesis Process for plants operating on natural gases or gases resulting from the treatment of mineral oils or their derivatives as starting material for the Hydrocarbon Synthesis. Such licenses shall be granted

against payment of a royalty which shall be fixed in each year and shall amount to eighty per cent of the lowest royalty agreed upon with third parties under similar circumstances for the same year. If no licenses shall have been granted to third parties for plants of that character, then the aforesaid eighty per cent royalty shall be forty cents (40¢) per ton of Primary Product. When other starting materials are used such licenses shall be granted against payment of the lowest royalties paid by third parties under similar circumstances in the year in question. It is understood that all the above royalties may be bought off in the customary way and on a most favoured treatment basis.

2. Insofar as the use of the Hydrocarbon Synthesis Process for the production of Hydrocarbons of the Petroleum Type is concerned, royalties shall be payable by the Partners and their Ratifying Subsidiaries to I.H.S., not only upon their operations under license from I.H.S., but also upon all their operations using such process for such purpose, including operations which are entirely outside the scope of all the patents of I.H.S. and are conducted without license from I.H.S.

### III.—LICENSING POLICY OF I.H.S.

1. I.H.S. shall, in granting licenses, endeavour to obtain 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.

2. Any request by a Partner for a license from I.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 INTERNATIONALE HYDROGENEERING-SOETROOIJEN MAATSCHAPPIJ (INTERNATIONAL HYDROGENATION PATENTS COMPANY), a company of The Netherlands, hereinafter called "I.H.P.", shall be granted only on condition that the Partner to which such license shall be granted shall grant to I.H.S. 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.

### IV.—WORKING UP OF HYDROCARBONS.

Upon any request from licensees of the Hydrocarbon Synthesis Process for licenses to work up hydrocarbons for other than chemical purposes, I.H.S. and the Partners hereby agree 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. and the Partners 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 the Partners and I.H.S. shall have delegated the licensing of their patent rights in this connection to licensing companies, they shall use their best efforts to cause such licensing companies to make such rights available to the licensees in question on reasonable terms.

### V.—GERMAN RIGHTS OF I.H.S.

I.H.S. hereby agrees to place at the disposal of I.G. exclusively and royalty-free, all its German Rights relating to the Hydrocarbon Synthesis Process owned, acquired or controlled by it on or before December 31st, 1952. It hereby agrees to grant to I.G. an exclusive license under such of the foregoing Rights as are patent rights, for the entire life of the patents with the right to grant licenses thereunder. It is agreed that I.G. shall bear all expenses in connection with filing and prosecuting applications for such patents and with the maintenance of such patents. I.G. hereby agrees, however, in granting such licenses thereunder to endeavour to obtain from its licensees royalty-free licenses (if possible, exclusive) with the right to grant licenses thereunder, for the world outside of Germany under such licensees' Rights relating to the Hydrocarbon Synthesis Process.

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

The Partners and I.H.S. 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.

**VII.—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 X hereof.

**VIII.—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.

**IX.—DURATION AND TERMINATION.**

This agreement shall terminate on December 31st, 1952, but shall, except with respect to the provisions of paragraph 1 of Article II and the provisions of Articles V, X and XI, terminate December 31st, 1947, if an agreement between I.H.S., I.H.P. and Ruhrchemie Aktiengesellschaft, a German company, dated as of 1938, shall terminate on December 31st, 1947. The foregoing shall, however, be without prejudice to the perpetual right of STANDARD and SHELL and their Ratifying Subsidiaries to receive the licenses and reduced royalty rates provided for in paragraph 1 of Article II hereof insofar as Rights acquired by I.H.S. prior to December 31st, 1952 are concerned.

**X.—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 agreement shall be decided with binding effect in accordance with the Rules of Arbitration of the International Chamber of Commerce by three arbitrators. One arbitrator shall be appointed by the arbitrating Partner or Partners and one by I.H.S. The third arbitrator (chairman) shall be determined by the Court of Arbitration in accordance with Article 12 of the Rules of Arbitration.

**XI.—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.

2. This agreement is personal in its nature and no party shall without the consent of the others assign or transfer its rights or obligations hereunder except to a successor of substantially the whole of its business.

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

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

THE M.W. KELLOGG COMPANY.

N.V. DE BATAAFSCHE PETROLEUM MAATSCHAPPIJ.

STANDARD—I.G. COMPANY.