PLAINTIFF'S EXHIBIT

UC-5016

UNION CARBIDE

THE DISCOVERY COMPANY

Calidria ASBESTOS
UNION CARBIDE CORPORATION • MINING & METALS DIVISION • P.O. BOX 579 • NIAGARA FALLS, N. Y. 14302 • TEL: 716-278-3376

August 21, 1975

Mr. W. E. Moore
Kelly-Moore Paint Company
1015 Commercial Street
San Carlos, CA 94070

Dear Mr. Moore:

Enclosed is the contract to purchase an average of 50 tons per month of "Calidria" asbestos High Purity Open over the next 15 months as discussed with you by T. P. Norris. This confirms our intent to supply 750 tons as a minimum quantity and your agreement to purchase that amount within the time frame specified.

Please return a signed copy of the contract as soon as possible, preferably within 15 days, so that we can plan our October production accordingly. As discussed, we have a limited capacity for HPO and will assign committed quantities as signed contracts are received.

The aim of this program is to assure our valued customers a continuing, predictable supply of raw material. Please let me know if you have any questions about the enclosed contract, or if we can be of service in any other way.

Very truly yours,

R. E. Byrne, Jr.
Area Manager
Marketing & Technology

REB:rsv
Enclosures

KMX 01983

cc. Doug Merrill

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UNION CARBIDE CORPORATION • MINING & METALS DIVISION • P.O. BOX 579 • NIAGARA FALLS, N. Y. 14302 • TEL: 716-278-3376

August 21, 1975

Mr. W. E. Moore
Kelly-Moore Paint Company
1015 Commercial Street
San Carlos, CA 94070

Dear Mr. Moore:

To confirm our various discussions, we shall sell to you, and you shall purchase "Calidria" asbestos HPO* (herein after referred to as "material") under the Terms and Conditions contained in Exhibit A attached hereto and under the following provisions:

1. Delivery of a minimum of 750 tons of material shall be made to you during the term of this agreement in approximately equal monthly installments.

2. The term of this agreement shall commence on October 1, 1975 and shall terminate on December 31, 1976 and shall be renewable annually thereafter by mutual agreement.

3. We will have the right to increase or decrease the prices set forth herein by giving you written notice thereof. Said increase or decrease shall be effective as to all deliveries made on and after the date specified in the written notice; provided, however, that in the case of an increase: the effective date shall not be less than thirty (30) days after said notice; and if you, within fifteen (15) days after said notice, furnish us evidence that you can purchase asbestos from a responsible seller of the same quality, under similar conditions and at a lower delivered price, and if within fifteen (15) days thereafter we do not agree to meet said lower price, you will have the right within ten (10) days thereafter to terminate this agreement by giving us not less than ten (10) days prior written notice.

* Seller agrees to supply SG-210 when available.

KMX 01984

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This offer shall terminate within 15 days after the date hereof if we have not received the duplicate copy of this letter signed by you indicating your agreement and acceptance.

Very truly yours,

UNION CARBIDE CORPORATION

By John L Myers

Title Marketing Manager

Date 8/21/75

Agreed to and Accepted:

Kelly-Moore Paint Company

By William Emura

Title Pres.

Date Aug. 25, 1975

J.L.Myers:cjb
Attachment

KMX 01985

EXHIBIT A

TERMS AND CONDITIONS

1. In addition to the purchase price, Buyer shall pay Seller the amount of all governmental taxes, excises and/or other charges (except taxes on or measured by net income) that Seller may be required to pay with respect to the production, sale or transportation of material delivered hereunder, except where the law otherwise provides.

2. Seller warrants that at the time of delivery the material will be of the Seller's standard specifications for the type and grade of the material described herein (unless otherwise specified herein) and will conform to the description thereof on the face of this document. THERE ARE NO EXPRESS WARRANTIES BY SELLER OTHER THAN THOSE SPECIFIED IN THIS PARAGRAPH 2. NO WARRANTIES BY SELLER OTHER THAN A WARRANTY OF TITLE AS PROVIDED BY THE UNIFORM COMMERCIAL CODE SHALL BE IMPLIED OR OTHERWISE CREATED UNDER THE UNIFORM COMMERCIAL CODE, INCLUDING BUT NOT LIMITED TO A WARRANTY OF MERCHANTABILITY AND A WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

3. Buyer's receipt of material delivered hereunder shall be an unqualified acceptance of, and a waiver by Buyer of any and all claims (including, but not limited to, claims arising under the express warranties specified in Paragraph 2) with respect to such material unless Buyer gives Seller written notice of claim within thirty (30) days after such receipt; the damages available in such instance shall be limited to that provided in Paragraph 4.

4. Buyer assumes all risks and liability for use of the material; has full knowledge of all hazards to persons and property involved in handling and using the material; and warrants that employees, independent contractors, and others who handle and use the material for Buyer have been advised of all hazards to persons and property involved in handling and using the material. Buyer hereby assumes and agrees to hold Seller harmless from all liability resulting from the use of the material, whether or not such is in combination with other articles or substances or is used in any manufacturing process. No claim against Seller of any kind, whether as to the material delivered or for nondelivery, and whether or not based on negligence or warranty, shall be greater in amount than the purchase price of the material with respect to which such claim is made. In no event shall Seller be liable to Buyer for any special, indirect or consequential damages, whether or not caused by or resulting from the negligence of, or breach of warranty by, Seller hereunder.

5. In the event Buyer fails to fulfill Seller's terms of payment for the material or in case Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller may decline to make further deliveries of material except upon receipt of cash or satisfactory security.

continued.....

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ACL Doc 19517 · Page 4 of 7 asbestosclaims.law/library/19517/4

6. Neither party shall be liable for its failure to perform hereunder due to any occurrence beyond its reasonable control, including acts of God, fires, floods, wars, sabotage, accidents, labor disputes or shortages, governmental law, ordinances, rules and regulations, whether valid or invalid (including, but not limited to priorities, requisitions, allocations and price adjustment restrictions), inability to obtain material, electrical power, equipment or transportation, any other similar or different occurrence. The party whose performance is prevented by any such occurrence shall have the right to omit during the period of such occurrence all or any portion of the quantity deliverable during such period, whereupon the total quantity deliverable hereunder shall be reduced by the quantity so omitted. If, due to any such occurrence, Seller is unable to supply the total demands for any materials hereunder, Seller shall have the right to allocate its available supply among its customers and its departments and divisions in such a manner as Seller shall deem fair and equitable. In no event shall Seller be obligated to purchase material from others in order to enable it to supply material to Buyer hereunder.

7. Unless otherwise specified by Seller herein, Seller's prices in effect at time of shipment will govern and payment shall be made within thirty (30) days from date of Seller's invoice.

8. Unless otherwise specified by Seller herein, delivery shall be made f.o.b. Seller's plant or warehouse and title and risk of loss of material so delivered shall thereupon pass to Buyer.

9. The validity, interpretation and performance of the terms hereof with respect to any material delivered (or to be delivered) hereunder shall be governed by the law of the State in which such material is (or is to be) manufactured; or in the event that material manufactured in several states is involved herein, such governing law shall be the law of the State in which the majority of such material, determined by invoice price, is (or is to be) manufactured.

10. No modification or waiver of the terms hereof shall be binding upon Seller unless approved in writing by a duly authorized representative of Seller, or shall be effected by the acknowledgment or acceptance of purchase order forms containing other or different terms whether or not signed by an authorized representative of Seller.

11. It is expressly understood that any technical advice furnished by Seller with reference to the use of material is given gratis and Seller assumes no obligation of liability for the advice given or results obtained, all such advice being given and accepted at Buyer's risk.

12. Buyer shall protect and indemnify Seller from and against claims, damages, judgments, expenses and loss arising from infringement or alleged infringement of any patent of the United States or any trade mark, directly or indirectly, arising out of or resulting from Seller's compliance with drawings, specifications or instructions furnished by Buyer to Seller, and Buyer shall defend or settle at its own expense any suit or proceeding brought against Seller for such infringement, provided that Buyer is notified promptly in writing of the commencement of such suit or proceeding and is given authority, information and assistance by Seller for the defense or settlement thereof.

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ACL Doc 19517 · Page 5 of 7 asbestosclaims.law/library/19517/5

KELLY - MOORE PAINT COMPANY, INC.
1015 COMMERCIAL STREET • SAN CARLOS, CALIFORNIA 94070 • (415) 592-8337

September 8, 1975

Mr. Thomas L. Fletcher
Sales Manager
Harrisons & Crossfield (Pacific) Inc.
1401 Park Avenue
Emeryville, California 94608

Dear Mr. Fletcher:

Through a misunderstanding on my part, your copy of the contract for Calidria SG-210 asbestos was filed instead of being returned to you.

I am sure you are aware that we intended to accept this contract along with the contract for the "HPO" grade. If for any reason this cannot be accepted, please advise.

Sincerely yours,

Bill Moore

William E. Moore, President

WEM/pey
Encl.

cc: Mr. Douglas Merrill
Mr. Robert Miller

KMX 01988

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ACL Doc 19517 · Page 6 of 7 asbestosclaims.law/library/19517/6

KELLY - MOORE PAINT COMPANY, INC.
1015 COMMERCIAL STREET • SAN CARLOS, CALIFORNIA 94070 • (415) 592-8337

August 29, 1975

Mr. R. E. Byrne, Jr.
Area Manager-Marketing & Technology
Mining & Metals Division
Union Carbide Corporation
P.O. Box 579
Niagara Falls, New York 14302

Dear Mr.Byrne:

Enclosed is an executed copy of the contract for 750 tons of "Calidria" HPO asbestos to be taken during the 15-month period beginning October 1, 1975. Thanks very much for making this contract, which will assure us a source of asbestos during the coming year.

Please call me when you are in the Northern California area, as I would like to have the opportunity to meet you.

Sincerely yours,

William E. Moore

William E. Moore, President

WEM/pey
Encl.

cc: Mr. Douglas Merrill
Mr. Robert Miller

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

KMX 01989

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ACL Doc 19517 · Page 7 of 7 asbestosclaims.law/library/19517/7