INTERNAL CORRESPONDENCE

METALS DIVISION

270 PARK AVENUE, NEW YORK, NEW YORK 10017

To (Name) Mr. Philip J. Fournier
Division Records Center
Location Morrisville, Vermont
Floor Number Loc. 210

Copy to Mr. R. F. X. Fusaro

Date September 9, 1976

Originating Dept.

Floor Number

Answering letter date

Subject DISTRIBUTOR AGREEMENTS - UCC "Calidria" Asbestos

PLAINTIFF'S EXHIBIT
UC-2216

Dear Mr. Fournier:

Enclosed please find a fully executed copy of the following documents:

1. Distributor Agreement between UCC and Apperson Chemicals dated March 1, 1976.

2. Distributor Agreement between UCC and ACTYVEX Corporation dated April 1, 1976.

Please acknowledge receipt of the above by signing the enclosed duplicate of this letter and returning same to me.

Very truly yours,

W. C. THURBER

jl
Atts.

UNION CARBIDE CORPORATION

DISTRIBUTOR AGREEMENT

AGREEMENT dated as of the 1st day of April 1975 between UNION CARBIDE CORPORATION (hereinafter sometimes called "Union Carbide"), a corporation organized and existing under the laws of the State of New York, having an office at 270 Park Avenue, New York, New York, and ACTYVEX Corporation (hereinafter called "Distributor") a corporation organized and existing under the laws of the State of Massachusetts having an office at 31 Exchange Street, Suite 25, Lynn, Massachusetts 01902.

W I T N E S S E T H:

1. DISTRIBUTORSHIP. Union Carbide hereby appoints Distributor as a non-exclusive distributor for the resale of "Calidria" Asbestos products listed in Exhibit A attached hereto and made a part hereof (hereinafter called "Product"). Union Carbide shall have the right at any time to make additions, deletions or modification in the Products set forth in Exhibit A by giving Distributor 30 days written notice of each such revision.

2. QUANTITY. Union Carbide agrees to sell and Distributor agrees to buy for resale, upon the terms and conditions herein set forth, Products in such quantities as Distributor shall need in its business as a distributor of Products. Distributor shall exercise its best efforts to resell as large a quantity of the Products as possible.

3. PRICES.

(a) The purchase price for Products sold and delivered to Distributor hereunder shall be Union Carbide's standard list price in effect at the time of shipment, less the resale discount specificed in Exhibit A. In addition to the foregoing, Distributor shall pay to Union Carbide as part of the purchase price the amount of all taxes, excises or other governmental charges that Union Carbide may be required to pay on the sale or transportation of any Product sold and delivered hereunder, except where the law otherwise provides.

(b) The aforementioned discount shall not apply to any Product ordered by Distributor for use or for resale by Distributor or to a corporation owned or controlled, directly or indirectly, by or affiliated with Distributor.

4. DELIVERY AND PAYMENT.

(a) All Products purchased by Distributor hereunder shall be delivered to Distributor and title shall pass f.o.b. Union Carbide's shipping location. All transportation charges shall be paid by Distributor.

(b) Purchase orders specifying quantity, type of Product, date of delivery and shipping instructions shall be furnished by Distributor a reasonable time prior to each delivery requested hereunder. Purchase orders shall be addressed as follows: Union Carbide Corporation, Mining and Metals Division, PO Box K, King City, California 93930.

(c) Terms of payment shall be net cash 30 days from invoice date.

(d) Union Carbide reserves the right at all times, either generally or with respect to any specific order by Distributor, to vary, change or limit the amount or duration of credit to be allowed to Distributor. Without limiting the generality of the foregoing, all deliveries hereunder are subject to the

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condition that all indebtedness of Distributor to Union Carbide due before the date of shipment shall first be paid.

(e) In the event Distributor is purchasing any Product for use or for resale by Distributor as provided in Article 3 (b) above, Distributor shall indicate on its purchase order the quantity and type of Product involved.

5. ACCEPTANCE OF ORDERS. All purchase orders hereunder are subject to acceptance by Union Carbide at its King City, California office. The right to reject any order is reserved by Union Carbide, even if a previous quotation has been made. An order is accepted by Union Carbide when shipped or when it is acknowledged in writing.

6. TRADEMARKS. Distributor shall not incorporate under or otherwise make use of the name of Union Carbide or of any of its divisions or subsidiaries, or make use of any trademarks or trade name of Union Carbide, or of any trademark or trade name which in the judgment of Union Carbide is confusingly similar thereto, or make use of any sale promotion or publicity literature, displays or stationery of Union Carbide, without the prior written consent of Union Carbide. Distributor shall not alter or remove any trademark or trade name applied by Union Carbide to the Products at its manufacturing facilities. Distributor's covenant under this Article 6 shall survive termination of this Agreement.

7. LITERATURE. Union Carbide will supply, on a no charge basis, reasonable quantities of general price lists which will list all Products generally available for sale by Distributor. Reasonable quantities of specifications and applications information on the Products will be furnished by Union Carbide for the use of Distributor sales personnel. Inquiries concerning Product availability, delivery or technical information should be directed to the nearest "Calidria" Asbestos office of the Metals Division of Union Carbide.

8. WARRANTY.

(a) Union Carbide warrants that at the time of shipment each Product delivered hereunder will meet Union Carbide's applicable standard specifications for such Product in effect at the time of shipment or such other specifications as have been expressly agreed upon with Distributor in writing. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO ANY PRODUCT DELIVERED HEREUNDER WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING WARRANTY OF MERCHANTABILITY IN OTHER RESPECTS THAN EXPRESSLY SET FORTH AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.OR ANY OTHER WARRANTY IMPLIED OR OTHERWISE CREATED UNDER THE UNIFORM COMMERCIAL CODE.

(b) Distributor's receipt of any Product delivered hereunder shall be an unqualified acceptance of, and a waiver by Distributor of any and all claims with respect to, such Product unless Distributor gives Union Carbide written notice of claim within thirty (30) days after such receipt. No claim against Union Carbide of any kind, whether as to Product delivered or for non-delivery of Product, and whether or not based on negligence or warranty, shall be greater in amount than the purchase price of the Product in respect of which such claim is made. Without limiting the generality of the foregoing, Union Carbide shall not be liable for any special, indirect or consequential damges whether or not caused by or resulting from the negligence of the seller or breach of the warranties by the seller hereunder.

(c) (see below)

9. PARTY RELATIONSHIP. This Agreement does not create any employer-employee, agency, joint venture or partnership relationship between Union Carbide and Distributor. Distributor is not authorized or empowered to act as agent for Union Carbide for any purpose and shall not on behalf of Union Carbide either enter into any contract, undertaking or agreement of any kind whatever or make any promise, warranty of representation with respect to the Products other than such as may be published by Union Carbide in its advertising and sales promotion material. The status of the Distributor shall be that of an independent contractor only.

10. FORCE MAJEURE. Neither party shall be liable for its failure to perform herunder (other than its failure to pay money) caused by circumstances beyond its control, including but not limited to acts of God, fire, floods, wars, sabotage, accidents, labor disputes or shortages, government actions (including but not limited to priorities, requisitions, allocations and price adjustment restrictions), inability to obtain material, equipment or transportation and any other similar or different contingency. The party whose performance is prevented by any such contingency shall have the right to suspend or reduce deliveries of Product during the period of the continuance of such causes or events and the total quantity of Products deliverable under this Agreement shall be reduced by the quantity of the deliveries so omitted. In the event of inability to supply the total demands for Products covered by this Agreement, Union Carbide may allocate its available supply among any or all purchasers as well as departments, divisions and subsidiaries of Union Carbide. Any such suspension, reduction or allocation in the quantity deliverable hereunder shall not be greater than the percentage reduction to other customers or departments, divisions and subsidiaries of Union Carbide taken in the aggregate. **In no event shall Union Carbide be obligated to purchase Product from others in order to enable it to deliver Product to Distributor hereunder.**

11. DURATION AND TERMINATION.

(a) The term of this Agreement shall commence on the date hereof and shall continue in full force and effect until terminated, with or without cause, by either party giving to the other written notice of termination at least thirty (30) days prior to the effective date of such termination, unless earlier terminated as herein provided. The rights and obligations of the parties under this Agreement pursuant to Article above shall survive any termination of this Agreement with respect to all orders accepted and Products delivered hereunder prior to the effective date of such termination.

8. (c) Distributor represents that it has full knowledge of the hazards involved in handling and using Product and that Distributor has advised its employees, independent contractors, and others, including purchasers of Product from Distributor, of said hazards. Distributor further represents that it is in compliance with, and will comply with all federal, state and local laws, regulations or orders governing use and handling of the Product, Distributor assumes, and agrees to hold Union Carbide harmless from all liability resulting from the use of Product by Distributor, its employees and independent contractors.

(b) Union Carbide may terminate this Agreement at any time upon written notice to Distributor if (i) Distributor files a petition in bankruptcy, (ii) Distributor makes a general assignment for the benefit of creditors, (iii) a receiver for Distributor is appointed, (iv) Distributor becomes insolvent, (v) any person who at the time of execution of this Agreement was participating substantially in the operation or ownership of Distributor dies, is incapacitated, removed, eliminated, resigns or withdraws for any reason from Distributor, or (vi) Distributor shall be guilty of a breach of any of the provisions of this Agreement and such breach has continued for ten (10) days after written notice of said breach from Union Carbide. Any termination of this Agreement pursuant to this paragraph (b) shall be in addition to and shall not be exclusive of or prejudicial to any other rights or remedies at law or in equity which Union Carbide may have against Distributor.

12. ASSIGNMENT. Any assignment or modification of this Agreement by either party without the prior written consent of the other party shall be void.

13. EXECUTION AND INTERPRETATION.

(a) The provisions of this Agreement shall be construed, and the performance thereof governed, in accordance with the laws of the State of New York.

(b) No change in, addition to, or waiver of the terms or conditions hereof shall be binding upon either party unless approved in writing by an authorized representative, and no modification shall be effected by the acknowledgment or acceptance of release or purchase order forms containing other or different terms or conditions.

(c) It shall be a sufficient giving of any notice or other communication hereunder if the party giving the same shall deposit a copy thereof in the Post Office in a registered or certified envelope, postage prepaid, properly addressed to the other party at the address hereinabove set forth or at such other address as the other party shall have heretofore in writing designated. The date of giving any such notice or other communication shall be the date on which such envelope was deposited as above provided. The Post Office receipt showing the date of such deposit shall be prima facie evidence of these facts.

(d) This Agreement supersedes as of the date hereof any existing agreement between the parties relating to the purchase and sale of or solicitation of orders for Products.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

DISTRIBUTOR

By C. A. Blanchard

Title President

UNION CARBIDE CORPORATION

By

Title Vice President - Metals Division

ACTIVEX CORPORATION
156 BROAD STREET SUITE G-8
LYNN, MASS. 01901
617 581-7225

UCC 004509

EXHIBIT A

"Calidria" Asbestos Product	Resale Discount
SG-210	5%
High Purity Pellets (HPP)	10%
High Purity Open (HPO)	10%
T-135-P	5%
T-135-O	5%
RG-110	10%
RG-144	10%
RG-244	10%
RG-600	10%

UNION CARBIDE CORPORATION
270 PARK AVENUE, NEW YORK, N.Y. 10017
LAW DEPARTMENT

WCT
If OK with you, return to me for signature
JW

Mr. J. W. Rawlings
38th Floor
270 Park Avenue

May 15, 1975

Re: Metals Division: Distributor Agreement with ACTYVEX Corporation (Calidria Asbestos)

Dear Mr. Rawlings:

Enclosed herewith are two counterparts of the Distributor Agreement with ACTYVEX Corporation which were sent to the Law Department for review. I have made several changes in the Agreement which should be initialed by Union Carbide and ACTYVEX Corporation in the spaces indicated in the right hand margin of the Agreement. I have initialed the Agreement for execution by Union Carbide.

If you have any questions, please do not hesitate to call.

Very truly yours,

Vic

Victor J. Zupa

VJZ:rs
Enc.
cc: W. C. Thurber
R. F. X. Fusaro/R. L. Doan/Files

RECEIVED
MAY 15 1975

From The desk of
W.C. THURBER

May 13, 1975

Mr. R. F. X. Fusaro
47th Floor

Please review the attached Distributor Agreement between UCC and ACTYVEX Corporation, dated April 1, 1975, and initial it for signing by Mr. Rawlings.

WCT/es
Enclosure - 2 copies of Agreement