



Interoffice Communication

To PETER HITCHCOCK
From J. C. FURNIVALL - REGENCY SQUARE
Date SEPTEMBER 15, 1981
Subject U.O.P. CONTRACT

RECEIVED
SEP 17 1981
PETER T. HITCHCOCK

Enclosed please find a copy of the U.O.P. Contract - sixth draft.

A tentative change to this draft has already been negotiated. This change is as follows:

SECTION 9: SHIPMENTS AND DELIVERY:

Will stay as written until the fourth sentence now will read—"Seller" shall not be required to ship in any one month more than one railcar more than the prorata amount (rounded up to the nearest whole railcar amount) of the maximum quantity herein specified,—.

OK

Peter, your comments on this draft contract would be appreciated.

JCF
JCF/jkw

Enclosure

X 5137

*Discussed w JCF. Mandy Alt,
9/21/81. Pointed out typos, threat
holding firm on warranty and on
co-products clause.*

PAH

SIXTH DRAFT

SALES AGREEMENT

This Agreement entered into this _____ day of _____, 19____ between Conoco Chemicals Company, A Division of Conoco Inc., hereinafter called Seller and UOP Process Division (a division of UOP Inc.), hereinafter called Buyer.

WITNESSETH:

Seller agrees to sell and deliver and Buyer agrees to purchase and receive Product upon the terms and conditions set forth below:

1. **PRODUCT:** CATAPAL SB Alumina (see specifications on Attachment A, Material Safety Data Sheet marked as Attachment B and Trip Lease Agreement marked Attachment C).
2. **PERIOD:** Commencing January 1, 1982, and ending December 31, 1984.
3. **QUANTITY:** Buyer's partial requirements estimated to be no less than 3,500,000 pounds to 4,000,000 pounds annually, not to exceed 4,000,000 pounds per year unless Seller agrees.
4. **PRICE:** \$0.61 per pound, F.O.B. Lake Charles, Louisiana, in bulk rail cars or trucks.
5. **PAYMENT TERMS:**
 - (a) All payments shall be made in U.S. dollars 30 days from date of invoice without discount or deduction. Payments at Seller's option shall be made by wire transfer to a bank account designated by Conoco.

- (b) If payment is not made as set forth above, Conoco may, upon written notice to Buyer, suspend deliveries of Product until payment is made and Conoco is given reasonable assurance that future payments will be made as set forth above. Provided, however, Conoco will not suspend deliveries where an invoice is disputed or Product did not meet specifications, but Buyer may only withhold payment on the disputed amount and on such Product that did not meet specification.

6. PRICE CHANGE:

The price specified in this Agreement may be changed by Seller on the first day of any calendar quarter by written notice sent to Buyer not less than fifteen (15) days prior to the effective date of change. Unless Buyer gives Seller written notice of objection to such change at least five (5) days prior to the effective date of the change, Buyer shall be deemed to have accepted the change. If Buyer gives such notice of objection and Buyer and Seller fail to agree on such change prior to the effective date thereof, this Agreement and the obligations of Seller and Buyer hereunder shall terminate with respect to the unshipped portion of the Product covered by it. In the event of any governmental action or request which prevents Seller from making a price increase or continuing any price already in effect, Seller may terminate this Agreement by giving Buyer thirty (30) days notice.

7. COMPETITIVE OFFERS:

If Buyer receives a bona fide offer to purchase Product of the same specifications as contained in this Agreement and of no greater quantity, at a price, including terms and conditions, lower than then applicable under this Agreement and if Buyer furnishes written evidence specifying the details of such offer to Seller, Seller will, within 15 days, either meet such price on the same quantity offered or allow Buyer to purchase the Product so offered. Buyer shall give Seller prompt notice of any quantity of Product purchased or to be purchased in accordance with the provisions of this paragraph. Such quantity shall be deducted from the quantity specified in this Agreement for the year in which it is so purchased. In addition, Seller at its option may also deduct such quantity for each year thereafter remaining under this Agreement. Election of such option by

Seller shall be given to Buyer by written notice within 30 days after Seller receives Buyer's notice of purchase.

8. MEASUREMENTS:

Seller's determinations at point of loading shall be accepted as to quantity of material delivered hereunder unless proven otherwise by Buyer. In any event, Seller shall supply a set of certified weights with each bulk shipment.

9. SHIPMENTS AND DELIVERY:

Buyer shall give Seller a rolling twelve month forecast of its expected requirements on a quarterly basis. Buyer shall give Seller reasonable advance notice for each shipment which shall include date of delivery and shipping instructions. Seller may, from time to time, specify lead time requirements. Seller shall not be required to ship in any one month more than one railcar above the pro rata amount of the maximum quantity herein specified, nor shall Seller be bound to ship any quantities for which Buyer has not given notice.

*See
Minor
revision,
per JCF's
9/15/81 memo.*

Each delivery shall stand as a separate transaction and the failure of any delivery shall not be deemed to impair the value of or to breach the Agreement as to other deliveries.

10. PURCHASE REQUIREMENTS

- (a) If, during any consecutive three month period, Buyer for any reason, (but not, however, for reasons of force majeure as set forth in Section 12) takes less than 65 percent of the average monthly quantity specified or the prorated minimum monthly quantity then applicable to such period under Section 3, followed by a three month period in which Buyer takes less than 90 percent of the prorated minimum monthly quantity, Seller may elect to reduce monthly quantities for the remaining period of this Agreement to the average monthly quantity taken by Buyer during such six month period.
- (b) If, during any consecutive 6 month period, Buyer for any reason, (but not, however, for reasons of force majeure as set forth in Section 12) takes Product in quantities less than that equal to at least one-half of

the average monthly quantity specified or the prorated minimum monthly quantity originally applicable to such period under Section 3, Seller may elect to terminate this Agreement.

- (c) It is Seller's intent not to unreasonably exercise its rights under (a) or (b) above in the event of adverse economic and business conditions in general.
- (d) Notice of election by Seller under (a) or (b) above shall be given within 30 days after the end of the applicable 6 month period, and, in the event of notice of termination under (b), effective date of termination shall be 30 days after the date of said notice.
- (e) Seller's and Buyer's rights and remedies under this Section shall be in addition to such other rights and remedies as may be available to Seller or Buyer in the event Seller or Buyer fails to perform in accordance with this Agreement.

11. DETENTION POLICY:

Seller's rail cars which are to be used to effect delivery to Buyer under this Agreement shall be trip leased to Buyer by Seller under a trip lease agreement. Under this agreement, the Buyer is allowed ten (10) days free time for unloading the hopper cars without any demurrage costs. The trip lease agreement is made a part of this Agreement as Attachment C. Even though Seller allows Buyer ten (10) free days to unload said hopper cars, Buyer shall use his best efforts to unload the hopper cars as quickly as possible after receipt at Buyer's consuming location.

12. FORCE MAJEURE:

Neither party shall be liable to the other for failure or delay in performance hereunder to the extent that such failure or delay is due to war, fire, flood, strike, lockout or other labor trouble, accident, breakdown of equipment or machinery, riot, act, request or suggestion of governmental authority, act of God, or other contingencies beyond the control of the affected party which interfere with the production or transportation of the material covered by this Agreement or with the supply of any raw material (whether or not the source of supply was in existence or contemplated at the time of the Agreement) or energy source used in connection therewith, or interfere with Buyer's consumption of such material, provided that in no event shall Buyer be relieved of the obligation to pay in full for material

delivered hereunder. Without limitation on the foregoing, neither party shall be required to remove any cause listed above or replace the affected source of supply or facility if it shall involve additional expense or departure from its normal practices. If any of the events specified in this paragraph shall have occurred, Seller shall have the right to allocate in a fair and reasonable manner among its customers and Seller's own requirements any supplies of material Seller has available for delivery at the time or for the duration of the event.

13. RAW MATERIAL AND ENERGY SUPPLY:

Seller's ability to supply Product under this Agreement is dependent on continued availability of necessary raw materials and products from its usual and anticipated suppliers and continued availability of energy supplies. In the event that such raw materials, product, and energy supplies are not readily available in sufficient quantities to permit Seller to meet its total commitments for Product, Seller shall have the right to allocate in a fair and reasonable manner among its customers and Seller's own requirements such Product as is available.

14. DISCLAIMER:

SELLER WARRANTS THAT PRODUCT WILL CONFORM TO THE SPECIFICATIONS SET FORTH IN ATTACHMENT A. OTHER THAN THE FOREGOING, SELLER MAKES NO GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY OR SUITABILITY OF PRODUCT FOR ANY SPECIFIC PURPOSE, EVEN IF THAT PURPOSE IS KNOWN TO SELLER. SELLER SHALL NOT BE LIABLE ON ANY CLAIM UNDER OR ARISING OUT OF OR FOR BREACH OF THIS AGREEMENT UNLESS ACTION THEREON SHALL BE BROUGHT WITHIN ONE YEAR FROM THE DATE OF SHIPMENTS OR BREACH. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES.

15. TAXES:

Any new tax or any increase in a present tax hereafter payable ^{by} Seller on or measured by the manufacture, production, processing, transportation or sale of material covered by this Agreement shall be paid by Buyer to Seller

in addition to the price specified herein; provided, however, that if any such tax is hereafter imposed or increased, Buyer may, by written notice to Seller given within thirty (30) days after the imposition of any such new or additional tax, elect not to reimburse Seller therefore and in such event Seller may thereupon, by written notice to Buyer, terminate this Agreement; if Buyer does not promptly give such written notice of its election not to reimburse Seller, Buyer shall pay such new or additional tax to Seller in addition to the price specified herein and any other tax payable by Buyer to Seller hereunder.

16. ASSIGNMENT:

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns provided, however, any assignment by either party without the prior written consent of the other party shall be void.

17. WAIVER OF BREACH:

No waiver by Seller or Buyer of any breach of any of the terms and conditions in this Agreement shall be construed as a waiver of any subsequent breach of the same or any other term or condition.

18. TERMINATION:

If any provision of this Agreement is or becomes violate of any law, or any rule, order or regulation issued thereunder, Seller shall have the right, upon notice to Buyer to terminate such provision, without affecting other provisions of the Agreement, or to terminate the Agreement in its entirety.

19. GOVERNING LAW:

This Agreement shall be governed by, and interpreted according to, the laws of the State of Illinois.

20. NOTICES:

All notices required or contemplated under this Agreement shall be given by prepaid first class mail or telex, and addressed to Seller as follows:

Conoco Chemicals Company
A Division of Conoco Inc.
5 Greenway Plaza East
P. O. Box 2197
Houston, Texas 77001

Attention: Manager of Marketing, Industrial Chemicals

and addressed to Buyer as follows:

UOP Process Division
UOP Inc.
20 UOP Plaza
Algonquin and Mt. Prospect Roads
Des Plaines, Illinois 60016

Attention: J. R. Barfield
Director of Material Procurement

21. SPECIAL PROVISIONS:

Buyer recognizes that product sold under this Agreement is a co-product of Seller's production of alcohols. Therefore, Buyer agrees that if Seller makes a good faith decision to discontinue or limit its production of alcohols, or, because of feedstock, fuel, or utility shortages is forced to discontinue or limit production of alcohol, Seller may discontinue or limit, or limit on a pro rata basis, its obligation to sell product hereunder without liability. In the event of a discontinuation of alcohol production, Seller agrees to give Buyer 12 months prior written notice and in the event of a limitation of alcohol production, will use its best effort to give maximum notice.

22. ENTIRE AGREEMENT:

This Agreement constitutes and contains the entire agreement between Buyer and Seller; there are no oral promises, representations or warranties. No alteration or amendment of this Agreement will be effective unless it is in writing and signed by Buyer and Seller.

EXECUTED as of the date first above written.

UOP Process Division
A Division of UOP Inc.

Conoco Chemicals Company
A Division of Conoco Inc.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachment A.

Attachment to Sales Agreement between UOP Inc. and Conoco Chemicals Company entered into this _____ day of _____, 19____

Conoco CATAPAL SB Alumina

<u>Test</u>	<u>Specifications</u>	<u>Test Method</u>
Al ₂ O ₃ , Wt. %	70 min.-78 max.	1.400
Carbon, Wt. %	0.5 max.	1.401
SiO ₂ , Wt. %	0.01 max.	1.402
Fe ₂ O ₃ , Wt. %	0.01 max.	1.403
Na ₂ O, Wt. %	0.01 max.	1.404
Total Metal Oxides Excluding Alumina	0.50 max.	1.412
<u>Physical Properties</u>		
Particle Size Distribution		1.405
Smaller than 45 microns	55% max.	
Greater than 90 microns	22% max.	
Bulk density, Loose, gms/liter	730-810	1.406
Pore Volume (0-800A)*, ml/gm	0.4 min.	1.407
Spec. Surface Area (BET)*, m ² /gm	230 min.	1.408
Crystallite Structure	Boehmite Type	1.409

* After calcination for three hours at 900°F.

UOP Process Division
A Division of UOP Inc.

Conoco Chemicals Company
A Division of Conoco Inc.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

SECTION V - HEALTH HAZARD DATA

THRESHOLD LIMIT VALUE

50 million particles/ft³ air

EFFECTS OF OVEREXPOSURE

May irritate and dehydrate skin if allowed to accumulate over extended time.
Irritating to mucous membranes on inhalation.

EMERGENCY AND FIRST AID PROCEDURES

SECTION VI - REACTIVITY DATA

STABILITY

UNSTABLE

CONDITIONS TO AVOID

STABLE

X

INCOMPATIBILITY (Materials to avoid)

HAZARDOUS DECOMPOSITION PRODUCTS

HAZARDOUS
POLYMERIZATION

MAY OCCUR

CONDITIONS TO AVOID

WILL NOT OCCUR

X

SECTION VII - SPILL OR LEAK PROCEDURES

STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED

Remove mechanically

WASTE DISPOSAL METHOD

Landfill

SECTION VIII - SPECIAL PROTECTION INFORMATION

RESPIRATORY PROTECTION (Specify type)

VENTILATION

LOCAL EXHAUST

Particulate dust mask

MECHANICAL (General)

SPECIAL

OTHER

PROTECTIVE CLOVES

Recommended

EYE PROTECTION

OTHER PROTECTIVE EQUIPMENT

Dust protection

SECTION IX - SPECIAL PRECAUTIONS

PRECAUTIONS TO BE TAKEN IN HANDLING AND STORING

OTHER PRECAUTIONS