

AGREEMENT

THIS AGREEMENT entered into this 7th day of May 1965 by and between THE BABCOCK & WILCOX COMPANY, a corporation of New Jersey, and having a place of business at 161 East 42nd Street, New York 17, New York (hereinafter called "B&W"), and THE EAGLE-PICHER COMPANY, a corporation of Ohio and having a place of business at 28-32 East Central Parkway, Cincinnati 1, Ohio (hereinafter called "E-P").

WITNESSETH:

WHEREAS, B&W has been engaged in research and development work in respect of a certain alumina-silica fiber for heat-resisting applications and is interested in developing uses and markets for said fiber which it deals in under the brand name "Kaowool"; and

WHEREAS, as part of the effort in development of markets for Kaowool, B&W is seeking to discover and promote applications for the product for various specialized industrial purposes.

WHEREAS, E-P is engaged in the development, manufacture and sale of insulating block and board made from mineral wool fibers and other materials and has acquired considerable background, experience and knowledge in the application of new and heretofore untried materials for use in insulating board form, and the promotional development of new insulating products; and

WHEREAS, it is possible that in its business of manufacture and sale of insulating block and board E-P will be able to use Kaowool and develop new uses and markets for Kaowool through its incorporation in products of the types manufactured and sold by E-P; and

WHEREAS, E-P and B&W desire to undertake a program looking to the development, design, manufacture, and promotional marketing of a new insulating board made from Kaowool and/or Kaowool and other mineral wool fibers.

NOW THEREFORE, in consideration of the premises and the covenants hereinafter set forth, it is mutually agreed as follows:

DEFINITIONS

The following words and phrases as used herein shall have the following meanings:

- (a) "Kaowool" shall mean an alumina-silica ceramic fiber which is produced by B&W from kaolin clay.
- (b) "Bulk Kaowool" shall mean loose Kaowool packed to densities of three to eight pounds per cubic foot.
- (c) "Kaowool insulating board" shall mean a ceramic board and/or block made from bulk Kaowool.
- (d) "Composite board" shall mean a board and/or block made from "Kaowool insulating board" and PV Supertemp fiber block.
- (e) The phrase "board foot" shall mean the equivalent of a piece of board or block one foot square and one inch thick, or 144 cubic inches of board or block.

PRODUCT AND MARKET DEVELOPMENT

- (a) E-P agrees to undertake a program of product development and promotional marketing of insulating block and board incorporating Kaowool. E-P will use its best efforts to produce

products of a quality appropriate to various uses of such insulating materials and to develop markets for such materials through technological education, customer relations and market promotion programs. To that end, E-P agrees to purchase from B&W, and B&W agrees to sell to E-P, for a period of one year from the date hereof, E-P's requirements of alumina-silica fiber of the Kaowool type. To induce and encourage E-P to undertake and prosecute said development and promotional program, B&W agrees that during said one year period it will supply Kaowool only to E-P in quantities as required by E-P for use in Kaowool insulating board and composite board, subject only to B&W's ability to produce said quantities with its present facilities.

- (b) In furtherance of B&W's development and promotion of Kaowool, E-P agrees for a period of one year from the date hereof, to manufacture in such quantities as is required by B&W, subject only to E-P's ability to produce said quantities with its present facilities, and to sell to B&W and B&W agrees to buy its requirements of Kaowool insulating board from E-P; E-P agrees to sell Kaowool insulating board only to B&W.

E-P further agrees to manufacture and sell composite board to B&W in quantities ordered by B&W, subject to E-P's ability to produce said quantities with its present facilities. E-P will have the right and privilege to manufacture and sell composite board directly to E-P's customers.

PRICES: TERMS: DELIVERIES:

- (a) For the 6-month period beginning on the effective date hereof, B&W agrees to sell to E-P bulk Kaowool at 63¢ per pound, f.o.b. point of manufacture in quantities ordered by E-P. Thereafter, upon 60 days' written notice, E-P will buy bulk Kaowool at B&W's then published list price.
- (b) For the 6-month period beginning on the effective date hereof, the price of Kaowool insulating board sold by E-P to B&W hereunder shall be as follows:

<u>Standard Widths and Lengths 24" x 36" or 12" x 36"</u>		
<u>Thickness</u>	<u>Price per Square Foot</u>	<u>Price per Board Foot</u>
1/2"	.65	1.30

or any 1/2" increments up to 4" of Kowool Insulating Board.

All prices F.O.B. Joplin.

Other sizes and special shapes than listed above: prices on request.

Thereafter, upon 60 days' written notice to B&W, E-P may increase or decrease such price by the amount of any difference in the cost of the Kaowool contained in the board resulting from any difference in the then current price of Kaowool sold to E-P by B&W hereunder from that in effect on the date hereof and further subject to increase or decrease by the amount of any changes in labor costs, freight rates on incoming materials, raw materials, taxes and utility rates.

The price of composite board sold by E-P to B&W hereunder shall be F.O.B. Joplin and shall be determined by adding (i) the amount of Kaowool Insulating Board based on the price per board foot given in paragraph (b) page 4 and (ii) the amount

(c) All shipments hereunder shall be made within a reasonable time after receipt of such order unless shipment is prevented by fire, flood, strike, lockout, riot, lack of transportation facilities, accident or any contingency beyond the reasonable control of E-P.

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PAYMENT OF INVOICES

The terms of payment for all products purchased or sold under the terms of this Agreement shall be thirty (30) days net from the date of shipment unless otherwise mutually agreed.

PRODUCT WARRANTY

Products must not be returned except by written permission of seller. Seller shall not be liable for any claims, losses, labor, expenses or damages, direct or consequential, resulting directly or indirectly from the use of, or inability to use, the products sold hereunder, including, without limitation, loss of profits because of increased operating costs, loss of production or shutdown of operation or otherwise and liabilities, claims and expenses in respect of third parties. There are no express or implied warranties, including without limitation any implied warranty of fitness, other than that the products will meet the specifications stated above. Products not meeting these specifications will be replaced, or, at seller's option, credit will be allowed for the original price thereof, provided written claim in respect of such products is made by buyer with reasonable promptness after delivery thereof but in no event more than one year after such delivery, use of such products is promptly discontinued and such products are returned to seller with reasonable promptness after delivery.

APPLICABLE LAW

The law of the State of New York shall be applied and govern in respect of all questions of interpretation or construction of this Agreement or any part thereof, and in respect of the performance of the activities and obligations provided for herein.

CONFIDENTIAL INFORMATION

The parties of this Agreement shall treat in confidence any and all of the information furnished by or acquired from each other relating to the method of manufacture, composition, and/or fabrication details of the products covered by this Agreement.

Upon termination of this Agreement, all matter in the possession of either party which has been furnished by or acquired from the other party to this Agreement consisting of or relating to the aforesaid information shall be promptly returned to the party to this Agreement from which said matter was obtained.

TERMINATION

This Agreement will be in effect for a period of one year and will be extended on an annual basis by mutual agreement between the parties hereto.

ASSIGNMENT

Neither party shall transfer, assign or in any manner encumber any obligations or rights hereunder without first obtaining in each instance, the written consent of the other party.

IN WITNESS WHEREOF the parties hereto have caused this Agreement
to be executed by their duly authorized officers as of the day and
year first above written.

Attest:

THE BABCOCK & WILCOX COMPANY

E. F. Horgan,
Assistant Secretary

Attest:

THE EAGLE-PICHER COMPANY

PRODUCT SPECIFICATIONS

CONTRACT SPECIFICATION SUPERGLAS 2300

Density: 12 lbs./Cu. Ft.

Min. 11 lbs./Cu. Ft.

Max. 13 lbs./Cu. Ft.

Shrinkage: Heated for 24 hours at 2200°F.
All surfaces exposed (Soaking Heat).
Maximum of 2% linear.

1/2 .

Specification for PV Supertemp Block

Density: 16 - 18 lbs./Cu. Ft.

Shrinkage @ 1900°F., 24 hours 2.5% maximum soaking heat.

Thickness Tolerance: $\pm \frac{1}{8}$
Minimum thickness 1", maximum 5", in 1/2" increments.

Kaowool Bulk Fiber to be provided having maximum shot content of 15% as tested by Babcock & Wilcox Test No. _____.

PAYMENT OF INVOICES

The terms of payment for all products purchased or sold under the terms of this Agreement shall be thirty (30) days net from the date of shipment unless otherwise mutually agreed.

PRODUCT WARRANTY

Products must not be returned except by written permission of seller. Seller shall not be liable for any claims, losses, labor, expenses or damages, direct or consequential, resulting directly or indirectly from the use of, or inability to use, the products sold hereunder, including, without limitation, loss of profits because of increased operating costs, loss of production or shutdown of operation or otherwise and liabilities, claims and expenses in respect of third parties. There are no express or implied warranties, including without limitation any implied warranty of fitness,

OTHER THAN THAT THE PRODUCTS WILL MEET THE SPECIFICATIONS
STATED ABOVE.

~~which extend beyond the description on the face hereof. In lieu~~
~~of any warranty whether expressed or implied by operation of law~~
~~or otherwise, Products~~ ^{NOT MEETING THESE SPECIFICATIONS} ~~proving defective in material and/or work-~~
~~manship in the hands of the buyer~~ will be replaced, or, at seller's
option, credit will be allowed for the original price thereof,
provided written claim in respect of such products is made by buyer
with reasonable promptness after delivery thereof but in no event
more than one year after such delivery, use of such products is
promptly discontinued and such products are returned to seller with
reasonable promptness after delivery.

APPLICABLE LAW

The law of the State of New York shall be applied and govern
in respect of all questions of interpretation or construction of
this Agreement or any part thereof, and in respect of the perform-
ance of the activities and obligations provided for herein.

CONFIDENTIAL INFORMATION

The parties of this Agreement shall treat in confidence any
and all of the information furnished by or acquired from each other
relating to the method of manufacture, composition, and/or fabrica-
tion details of the products covered by this Agreement.

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E-P agrees for a period of one year from the date hereof, to manufacture in such quantities as is required by B&W, subject only to E-P's ability to produce said quantities with its present facilities, and to sell to B&W and B&W agrees to buy its requirements of Kaowool insulating board from E-P; E-P agrees to sell Kaowool insulating board only to B&W.

E-P further agrees to manufacture and sell composite board to B&W in quantities ordered by B&W, subject to E-P's ability to produce said quantities with its present facilities. E-P will have the right and privilege to manufacture and sell composite board directly to E-P's customers.

PRICES: TERMS: DELIVERIES:

- For the 6 month period beginning on the ^{effective} date hereof,*
- (a) B&W agrees to sell to E-P bulk Kaowool at ~~its published list price, which price is currently 63¢ per pound, f.o.b. point of manufacture in quantities ordered by E-P. ^{(within a reasonable time after the receipt of each order, unless shipment is prevented by fire, flood, strike, lockout, riot, lack of transportation facilities, accident or any contingency beyond the reasonable control of B&W.}~~ *Thereafter, upon 60 days written notice, E-P, B&W ^{will buy} bulk Kaowool at B&W's then published list price.*
- (b) The price of Kaowool insulating board sold by E-P to B&W hereunder shall be as follows:

For the 6 month period beginning on the ^{effective} date hereof,

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<u>Standard Widths and Lengths 24" x 36" or 12" x 36"</u>		
<u>Thickness</u>	<u>Price per Square foot</u>	<u>Price per Board Foot</u>

1/2"	.65	1.30
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or any 1/2" increments up to 4" of Kaowool Insulating Board.

All prices F.O.B. Joplin.

Other sizes and special shapes than listed above: prices on request.

(*Thereafter, upon 60 days' written notice to B&W, E-P may*)
~~Price is subject to~~ [^] increase or decrease ^{in price} by the amount of any difference in the cost of the Kaowool contained in the board resulting from any difference in the then current price of Kaowool sold to E-P by B&W hereunder from that in effect on the date hereof and further subject to increase or decrease by the amount of any changes in labor costs, freight rates on incoming materials, raw materials, taxes and utility rates.

The price of composite board sold by E-P to B&W hereunder shall be ^{B&W Joplin and that be} determined by adding (i) the amount of Kaowool Insulating Board based on the price per board foot given in paragraph (b) page 5 and (ii) the amount obtained by multiplying the remaining number of board feet in such order by the then current list price less distributor/agent discount, presently \$.172 per Board Foot, for E-P's regular PV Supertemp insulating board.

~~These prices for the Kaowool insulating board, and the composite board shall be f.o.b. Joplin, and shall remain as]~~ ^{to determine}

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firm prices for a period of six (6) months from the date hereof and, thereafter, shall be subject to change on ^{upon} sixty (60) days' notice being sent to the party to be charged.] (C) All shipments
 E-P _{have to be made}

~~agrees to ship the aforesaid Kaowool insulating board and/or composite board products as B&W shall order, within a reasonable time after receipt of such order unless shipment is prevented by fire, flood, strike, lockout, riot, lack of transportation facilities, accident or any contingency beyond the reasonable control of E-P.~~

PRODUCT SPECIFICATIONS

CONTRACT SPECIFICATION KAOWOOL INSULATING BOARD

Density: 12 lbs. / Cu. Ft. Min. 11 lbs. / Cu. Ft.
Max. 13 lbs. / Cu. Ft.

Shrinkage: Heated for 24 hours at 2200°F.
 All surfaces exposed (Soaking Heat).
 Maximum of 2% linear.

Thickness Tolerance:

1/2" material + 10%

Specification for PV Supertemp Block

Density: 16 - 18 lbs. / Cu. Ft.

Shrinkage at 1900°F., 24 hours 2.5% maximum soaking heat.

Thickness Tolerance: + 10%

Minimum thickness 1", maximum 5", in 1/2" increments.

Kaowool Bulk Fiber to be provided having maximum shot content of 15% as tested by Babcock & Wilcox Test No. 3717.