PLAINTIFF'S EXHIBIT

CT-1103

CIF

# CONTRACT for the sale of ASBESTOS FIBRE

*No.* 254 *Date* 12th May 19 64.

**TURNERS ASBESTOS FIBRES LIMITED,**
FAULKNER HOUSE, FAULKNER STREET, MANCHESTER 1, ENGLAND (Sellers)

agree to sell and CERTAIN-TEED PRODUCTS CORPORATION,
LEA BUILDING,
AMBLER,
PENNSYLVANIA,
U.S.A.

(Buyers) agree to purchase the following goods on the following terms and conditions:

1. **Description and Quantity:** Asbestos Fibre in tons of 2,000 lb. net weight.

Rhodesian C&G/3 - 250 tons (two hundred and fifty)
" C&G/4 - 150 tons (one hundred and fifty)
" C&G/5 - 500 tons (five hundred)

Delivery of the quantities shewn above is contingent upon the maintenance of a rate of mining production of the qualities concerned equal to current estimates for the period of the contract. If for any reason these estimates are not maintained the quantities to be delivered under this contract may be proportionately reduced at the option of the Sellers.

2. **Price:** Per ton of 2,000 lb. net weight. C.i.f. U.S. Atlantic Port

C&G/3 @ £85.16. 6d. (eighty five pounds sixteen shillings and sixpence)
C&G/4 @ £66. 6. 0d. (sixty six pounds six shillings)
C&G/5 @ £54. 3. 0d. (fifty four pounds three shillings)

The above prices are subject to a discount of 4% on the F.o.b. equivalent prices, which are as follows:-

C&G/3 £77.10. 0d. (seventy seven pounds and ten shillings)
C&G/4 £58. 0. 0d. (fifty eight pounds)
C&G/5 £45.18. 0d. (forty five pounds and eighteen shillings)

The price(s) shewn above is/are in Sterling or, at the option of the Sellers as provided below, in the currency of either Southern Rhodesia or the Republic of South Africa and is/are based on the conditions ruling at the date of this contract, and the Sellers are unable to bind themselves to any fixed prices to be applicable to shipments during the year 1964. The Sellers shall therefore have the right, at any time during the continuance of this contract, to notify the Buyers of increased prices (which will become applicable forthwith to any deliveries shipped after the date of such notification) whether such increases are caused by increased mining costs or through any other cause. In the event of the Sellers so increasing the price(s) mentioned in this contract and charging in lieu thereof the price(s) ruling at the dates of shipment, the Buyers shall have the right if they wish so to do to cancel the undelivered balances of the amounts comprised within this contract.

3. **Terms:** Prompt net cash in Sterling in London or (at the option of the Sellers such option being exercisable by notification in writing or by cable by the Sellers at any time in respect of any deliveries which have not been shipped at the date of such notification) in the currency of

Southern Rhodesia (for sales of Rhodesian asbestos) in London or Bulawayo at the option of the Sellers.

the Republic of South Africa (for sales of asbestos from the Union of South Africa or Swaziland) in London or Johannesburg at the option of the Sellers.

**By telegraphic transfer against presentation of shipping documents. Bankers charges, including cost of telegraphic transfer, to be for account of Buyers.**

4. **Freight:** the above price(s) is/are based upon freight rates as follows :—

Per ton of 2,240 lb. gross weight.

**For C&G/3, C&G/4 & C&G/5 - U.S. $25.25 (twenty five dollars and twenty five cents) converted at $2.80 (two dollars and eighty cents) to the £ Sterling.**

and Buyers are to pay or receive any difference in the rate of freight above or below that figure. All charter benefits or allowances or returns of primage to be for account of Sellers. Any demurrage incurred at port of discharge and any export or other duty, tax or similar imposition in respect of the goods to be for account of Buyers.

5. **Insurance:** The above price(s) is/are based upon a marine insurance rate of :

**2/3d. (two shillings and threepence)**
**+ 9d. War Risk**

per cent. and Buyers are to pay or receive any difference in the rate of ~~marine~~ insurance above or below that figure. ~~War risks (and other kindred exceptional risks) are not included and the goods will not be insured against such risks unless Buyers shall in any particular case so request, and in that event the premiums therefor will be for account of Buyers. If such risks are not insured against, any loss from any such cause shall fall to Buyers.~~

6. **Shipment:** It is a condition of this Contract that instructions must be given by the Buyers for shipment thereunder during the contract year approximately equal monthly proportions or otherwise as agreed. Accordingly the Buyers shall give appropriate shipping instructions (either periodically or at or towards the beginning of the contract year) so as to give the Sellers ample time to arrange shipments on this basis.

In the event of Buyers failing (from any cause whatever) to comply with this condition the Sellers shall have the option to cancel those tonnages in respect of which up to the date of cancellation shipping instructions were not given by the Buyers in sufficient time as aforesaid.

If shipping instructions are given for approximately equal monthly shipments as aforesaid or otherwise as agreed, then the Sellers will use their best endeavours to arrange the necessary shipping facilities, but if and so far as this proves impossible for reasons beyond their control, then the provisions of Clause 12 hereof shall apply.

7. **Period of Shipment:** **Between 12th May 1964 and 31st December 1964.**

8. **Cost of Discharging:** For account of Buyers.

9. **Advices of Shipment:** Sellers will endeavour to give prompt notice of details of each shipment to Buyers, but in the event of any mutilation, delay in delivery or non-delivery of cables or other communications concerning shipments either addressed to or sent by Sellers, however caused, Sellers shall not be responsible for any consequences arising therefrom.

10. **Special Conditions:** It is a condition of this contract that all asbestos supplied under it shall be used by the Buyers in their own factory or factories and not re-sold by them in an unmanufactured state.

11. **General Conditions:** (a) Should any new export or other duty or navigation tax or increase in the existing duty or tax in the country of origin or port of shipment, or increase in railway charges on the African railway, and/or railways, on which the asbestos is carried or any import or other duty in the country of destination, be imposed during the continuance of this contract, increasing cost of the asbestos to Sellers, the increase shall be paid by Buyers on any shipment for which freight shall have been engaged or steamer stemmed or loaded at the discretion of the Sellers.

(b) If Buyers make default in payment or become subject to Bankruptcy Law or go into liquidation for any purpose other than reconstruction or reorganisation, Sellers may at their option withhold all or any further deliveries for such time as they think fit and/or cancel the balance of the contract.

12. **Exceptions:** Sellers shall not be responsible either for non-shipment or in the event of any deliveries being delayed or prevented for any of the following reasons, or in any of the following events:—

(a) In the event of any prohibition being placed on the export of asbestos.

(b) In the event of any deliveries being delayed or prevented by want of transport or railage, or while on the road and/or railway, or during loading, by force majeure or by causes arising from disaster on land, river, or sea.

(c) In the event or in consequence of tempests, earthquakes, cyclones, flooding of mines, carrying away of bridges, or other cause hindering or preventing extraction from mines or transport of asbestos from mine to railway and/or to port of shipment.

(d) In the event of fire or destruction of mining materials or warehouses or store sheds.

(e) In consequence of any Act of God or the Queen's enemies, or any war, insurrection, strike or lock-out of workmen or any other cause whatsoever beyond the control of Sellers.

If stoppage of or delay in deliveries is occasioned by any of the above causes or by any other unforeseen circumstances, the deliveries affected (where they are not wholly prevented) may, at the option of the Sellers, either be cancelled in whole or in part or be wholly or partially suspended and in the case of suspension the time for deliveries agreed upon may be proportionately extended by the Sellers.

CTD027763

13. **Arbitration:** Any dispute arising out of this contract to be settled by arbitration in London by two Arbitrators (one to be appointed by each party to the reference) or their Umpire pursuant to the Arbitration Acts, 1889 to 1950.

14. **Notices:** To be given in writing (either delivered or by post or by cable or by telegram) to the parties at their above-mentioned addresses.

15. **English Law to apply:** This contract is made in England and English Law shall apply thereto for all purposes.

16. **Application to other orders:** The terms and conditions contained in this Contract shall apply not only to all goods ordered by the Buyers thereunder but also (so far as applicable) to all goods ordered by Buyers from Sellers either by letter or any other less formal manner or ordered in accordance with the provisions of any other Agreement for the supply of asbestos fibre between Buyers and Sellers, unless and except in so far as any other terms and conditions contained in this Contract are inconsistent with any special terms agreed between Buyers and Sellers in any particular instance.

**Accepted on behalf of Sellers:**

TURNERS ASBESTOS FIBRES LIMITED,

Director.

**Accepted on behalf of Buyers:**

CERTAIN-TEED PRODUCTS CORPORATION
PIPE DIVISION

Ralph L. Lanz
Vice President-Manufacturing