A G R E E M E N T

Agreement made and entered into this 26th day of May, 1958, by and between NATIONAL LEAD COMPANY, a corporation organized under and by virtue of the laws of the State of New Jersey, with its principal office located at 111 Broadway, New York 6, New York, (hereinafter sometimes referred to as "NATIONAL") and THE EAGLE-PICHER COMPANY, a corporation organized under and by virtue of the laws of the State of Ohio, with its principal office located in The American Building, Cincinnati 1, Ohio, (hereinafter sometimes referred to as "EAGLE-PICHER");

WITNESSETH:

WHEREAS, NATIONAL has been engaged for several years in researching and manufacturing Basic Lead Silico-Chromate pigment which NATIONAL sells under its trademark "M 50", and

WHEREAS, NATIONAL is possessed of considerable know-how and United States Letters Patent No. 2,668,122, dated February 2, 1954, covering the production of BISC, and particularly Basic Lead Silico-Chromate compositions which hereinafter are referred to as "BISC," and

WHEREAS, EAGLE-PICHER is desirous of acquiring this know-how and a license under the said patent so that EAGLE-PICHER can enter upon the production of BISC in its own facilities, and

WHEREAS, EAGLE-PICHER is further desirous of immediately entering upon the marketing of BISC and of acquiring a source of supply of BISC until such time as its own production facilities are completed.

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

1. NATIONAL warrants that it is the owner of all right, title and interest in and to the United States Letters Patent No. 2,668,122, dated February 2, 1954, covering the production of "Composite Lead Chromate-Lead Silicate Pigment" and has the right to enter into this Agreement upon the terms and conditions herein set forth and to grant the license set forth in Exhibit A hereof.

2. NATIONAL agrees to give and grant to EAGLE-PICHER and EAGLE-PICHER agrees to accept from NATIONAL a non-exclusive license under the licensed patents as defined in the License Agreement set forth in Exhibit A hereof. Simultaneously with the execution of this Agreement, NATIONAL and EAGLE-PICHER agree to execute the License Agreement set forth in Exhibit A.

3. Immediately upon the execution of this Agreement, EAGLE-PICHER shall commence the construction of facilities of its own for the production of BISC and, except for circumstances beyond the control of EAGLE-PICHER, including, but without limitation, such circumstances as war, acts of God or strikes, shall complete the construction of the said facilities and commence production of BISC no later than fourteen months from the anniversary date of the execution of this Agreement and the License Agreement set forth in Exhibit A. NATIONAL shall provide EAGLE-PICHER with the benefit of NATIONAL's know-how in the construction and start-up of production of the said facilities whenever called upon by EAGLE-PICHER so to do.

4. Immediately upon the execution of this Agreement and the License Agreement set forth in Exhibit A, EAGLE-PICHER shall pay over to NATIONAL the sum of FIFTY THOUSAND DOLLARS ($50,000.00), which sum shall be a minimum advance royalty to be credited against future earned royalties as reserved to NATIONAL in accordance with the terms set forth in the License Agreement, Exhibit A.

5. Until such time as EAGLE-PICHER commences the production of BISC from its own facilities, but in no event for more than fourteen months from the anniversary date of the execution of this Agreement and the License Agreement set forth in Exhibit A, NATIONAL agrees to furnish to EAGLE-PICHER, for resale by EAGLE-PICHER, BISC at a price of Seventy Dollars ($70.00) less than the price per ton in carload lots at which NATIONAL sells BISC to the non-resale trade in carload lots, f.o.b. St. Louis, Missouri. It is mutually understood that the price at which NATIONAL sells to the non-resale trade may vary from time to time because of fluctuations in the cost of materials and of labor and because of other business factors. Therefore, it is agreed that the price at which NATIONAL will sell BISC to EAGLE-PICHER shall be Seventy

Dollars ($70.00) less per ton than the price being charged to the non-resale trade by NATIONAL at the time of receipt of any order from EAGLE-PICHER, or the price at which BISC was last billed to said non-resale trade prior to receipt of an EAGLE-PICHER order, whichever price may be the lesser. For the purpose of this Agreement a ton is defined as a short ton consisting of TWO THOUSAND POUNDS (2,000), avoirdupois.

6. To facilitate EAGLE-PICHER's marketing of BISC produced by NATIONAL as contemplated by this paragraph of this Agreement, EAGLE-PICHER, at its own expense, shall supply NATIONAL, at its plant in St. Louis, Missouri, with bags or containers bearing the EAGLE-PICHER name and such trademark designation as EAGLE-PICHER may adopt, and the cost incurred by NATIONAL in filling such containers shall be included in the per ton price specified herein. In no event shall EAGLE-PICHER merchandise BISC under NATIONAL's trademark "M 50" without the prior written consent of NATIONAL.

7. Fourteen months from the anniversary date of the execution of this Agreement and the License Agreement set forth in Exhibit A, NATIONAL's obligation to furnish EAGLE-PICHER with BISC as provided in paragraph 5 above shall terminate; and thereafter, EAGLE-PICHER shall produce BISC from its own facilities and pay NATIONAL the royalty rates reserved to NATIONAL in the License Agreement set forth in Exhibit A.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by its proper officers thereunto duly authorized and its seal to be affixed hereto the day and date first above written.

NATIONAL LEAD COMPANY

By [signature]
Vice President

ATTEST:

Asst. [signature]
Secretary

THE EAGLE-PICHER COMPANY

By M. M. [signature]
Vice President

ATTEST:

[signature]
Secretary

NL 000041789

EXHIBIT A

LICENSE AGREEMENT

This License Agreement, made and entered into this 26th day of May , 1958, by and between NATIONAL LEAD COMPANY, a corporation organized under and by virtue of the laws of the State of New Jersey, with its principal office located at 111 Broadway, New York 6, New York, (hereinafter sometimes referred to as "LICENSOR") and THE EAGLE-PICHER COMPANY, a corporation organized under and by virtue of the laws of the State of Ohio, with its principal office located in The American Building, Cincinnati 1, Ohio, (hereinafter sometimes referred to as "LICENSEE");

WITNESSETH:

WHEREAS, LICENSOR represents that it is the owner of all right, title and interest in and to the Licensed Patents (as hereinafter defined in ARTICLE I); and

WHEREAS, LICENSEE desires to acquire the within license under the said Licensed Patents and LICENSOR is willing to grant such license.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions herein contained, it is mutually agreed as follows:

ARTICLE I

Definitions

A. The term "Licensed Patents" shall mean United States Letters Patent No. 2,668,122, issued February 2, 1954, and all United States Letters Patent covering Improvements (as hereinafter defined) owned by LICENSOR while this Agreement is in effect.

B. The term "Improvement" shall mean any invention, the practice of which would necessarily infringe one or more of the valid claims (as hereinafter defined) of the Licensed Patents as above defined.

C. The term "valid claim" shall mean a claim of an issued patent included in the Licensed Patents so long as such claim shall not have been held invalid by an unappealed or unappealable decision of a court of competent jurisdiction.

B. The term "subsidiary" shall mean any company or corporation, all of the stock of which (except director's qualifying shares), having power to vote for the election of directors, is or becomes, while this Agreement is in effect, owned directly or indirectly by one party, or by such party and one or more of its subsidiaries (as herein defined), or by one or more of such party's subsidiaries (as herein defined), such a company or a corporation to be deemed a "subsidiary" only so long as such ownership of voting stock continues.

ARTICLE II

Grant of License

A. Subject to the terms and conditions hereinafter set forth, LICENSOR hereby grants to LICENSEE a non-exclusive right and license under the Licensed Patents to make, use and sell products covered by the Licensed Patents.

B. No license is granted by this Agreement to LICENSEE, either expressly or by implication, under any patent rights owned or controlled by LICENSOR except under the Licensed Patents as defined herein; provided, however, that the license hereby granted shall extend to any other patents now owned or controlled by LICENSOR, or hereafter issued on any applications now owned or controlled by LICENSOR, which are generic to and dominate the Licensed Patents, but only to the extent that the production of products or practice of any invention covered by the Licensed Patents would necessarily infringe said other patents.

ARTICLE III

Royalty

A. As a minimum advance royalty for the license granted in Paragraph A of ARTICLE II hereof, LICENSEE shall pay to LICENSOR upon the execution of this License Agreement the sum of FIFTY THOUSAND DOLLARS ($50,000.00). The said minimum advance royalty of FIFTY THOUSAND DOLLARS ($50,000.00) shall be credited against the earned royalties reserved to

LICENSOR as hereinafter set forth during the term of this License Agreement.

B. As earned royalty for the License granted in Paragraph A of ARTICLE II hereof, LICENSEE shall pay to LICENSOR, at the times and in the manner hereinafter set forth, an amount equivalent to ten percent (10%) of the sales value, as hereinafter defined, of the first Two Thousand Five Hundred Tons (2,500) of BISC (as defined in the Agreement between the parties executed of even date herewith, to which this License Agreement is supplemental) sold or used by LICENSEE in any one year; an amount equivalent to nine percent (9%) of the sales value of the second Two Thousand Five Hundred Tons (2,500) of BISC sold or used by LICENSEE in any one year; and an amount equivalent to eight percent (8%) of the sales value of BISC sold or used by LICENSEE in excess of Five Thousand Tons (5,000) in any one year.

C. The term "sales value" shall mean the carload price in effect as published from time to time by National less freight absorbed by and cash discount allowed by LICENSEE.

ARTICLE IV

Reports and Payments

Within sixty (60) days after the first day of January, April, July and October of each year up to and including the first day of any such month following the termination or expiration of this Agreement, LICENSEE shall render a written report to LICENSOR showing, for the preceding quarter calendar year, the net sales value of all BISC sold or used by LICENSEE hereunder, the amount of royalty payable and the basis on which it was determined, or (if such be the case) that no royalty is payable. Each such report shall be accompanied by the payment of any royalties thereby shown to be due for such quarter calendar year.

ARTICLE V

Accounting and Examination of Books

LICENSEE shall keep correct and complete records and books of account containing all information required for the computation and verification of the sums to be paid hereunder. LICENSEE agrees, at the request of LICENSOR, to permit an independent public accountant selected by LICENSOR (except one to whom LICENSEE has some reasonable objection) to have access, during ordinary business hours, to such records as may be necessary (1) to determine in respect of any quarter calendar year ending not more than two (2) years prior to the date of such request the correctness of any report and/or payment made under this Agreement, or (2) to obtain information as to the royalties payable for any such period in case of failure of LICENSEE to report and/or pay pursuant to the terms of this Agreement. The determination of such accountant shall be final and binding upon the parties hereto except as to whether a product is subject to royalty hereunder. Such accountant shall not disclose to LICENSOR any information relating to the business of LICENSEE except that which should properly have been contained in any report required hereunder.

ARTICLE VI

Duration

A. Unless sooner terminated, as hereinafter provided, this Agreement shall remain in full force and effect until February 2, 1971, unless LICENSEE is operating under an Improvement Patent owned by LICENSOR and elects by notice in writing to LICENSOR to continue its operations under such Improvement Patent.

B. LICENSEE may terminate this Agreement at any time upon ninety (90) days' written notice to LICENSOR.

C. In the event that LICENSEE shall at any time fail to make payments, render reports, or otherwise abide by the conditions herein provided, LICENSOR shall have the right to notify LICENSEE of such default and that it intends to terminate this Agreement unless such default is corrected. Unless such default shall be corrected by LICENSEE within sixty (60) days from the receipt by it of such notice, LICENSOR shall be entitled by notice to LICENSEE to terminate this Agreement at any time after the end of said sixty (60) day period while said default continues.

D. The termination of this Agreement for any reason shall not prejudice LICENSOR's rights to royalties due it hereunder and unpaid on the effective date of termination, or to any examination of LICENSEE's records for any period as herein provided.

E. Notwithstanding the provisions of ARTICLE III hereof, all products manufactured hereunder by LICENSEE before the effective date of termination or expiration, but not used or sold by LICENSEE before the effective date of termination or expiration of this Agreement shall be deemed to be BISC on which a royalty is due and royalty shall be paid to LICENSOR as provided in ARTICLES III and IV hereof in respect thereto. Such royalty shall be computed as if such products had been sold while this Agreement was in effect at the average net sales value of all BISC sold or used during the quarter calendar year next preceding such termination or expiration in which such sales shall have occurred.

ARTICLE VII

Patent Marking

LICENSEE agrees to mark each bag or container of BISC with either "U.S. Pat. No. 2,668,122" or "manufactured under U.S. Pat. No. 2,668,122."

ARTICLE VIII

Infringement

In the event the patent herein licensed is infringed by others, National agrees that it will promptly use its best efforts to restrain such infringement by demand and notification to the infringer, and that if National is unsuccessful in so doing, National will file and diligently maintain at its own expense an action for patent infringement against such infringer, to the end that the patent licensed herein shall be upheld or declared invalid or that the defendant in such action shall either discontinue the infringement or accept a license under the patent licensed herein and pay royalty therefor. However National, in fulfilling the obligations provided by this paragraph shall not be required to maintain more than one action for patent infringement at any given time.

ARTICLE IX

Indemnification

Eagle-Picher shall have the right to withhold payment of royalty as specified in ARTICLE III and to apply such withheld royalty to expenses incurred by Eagle-Picher including settlement, legal fees, costs, damages and the like arising out of a notice of infringement and/or infringement suit, in the event that Eagle-Picher is notified that its sale of products licensed herein or the method used by Eagle-Picher in the production of such products is an infringement of a United States Letters Patent owned by another than National, or in the event Eagle-Picher is named defendant in a suit brought to restrain such infringement; provided, however, that National, within a period of sixty (60) days after being informed by Eagle-Picher of such notice of infringement or institution of suit and of the facts pertinent to Eagle-Picher's operations in defense thereof, may agree in writing to indemnify and save Eagle-Picher harmless against any and all damages, court costs and attorneys' fees which a court might award against Eagle-Picher on such account. If National indemnifies Eagle-Picher as provided herein, royalty shall not be withheld and National shall have the right to assume the entire defense of Eagle-Picher through counsel of its own choosing; Eagle-Picher agrees that it shall not settle, compromise or make any adjustment with the plaintiff in any action as to which National has indemnified Eagle-Picher as provided herein without first obtaining National's consent in writing so to do. In any event, National agrees to assist Eagle-Picher in the defense of any patent infringement action brought against Eagle-Picher arising from or based upon Eagle-Picher's operations in exercise of the license granted herein.

ARTICLE X

Waiver

The waiver of any breach of this Agreement by either party hereto shall in no event constitute a waiver as to any future breach, whether similar or dissimilar in nature.

ARTICLE XI

Notices

Any notice required or permitted to be given or made under this Agreement by one of the parties to the other shall be deemed to have been sufficiently given or made for all purposes if mailed, by registered mail, postage prepaid, addressed to such party at its address indicated at the beginning of this Agreement, or to such other address as the addressee shall have theretofore furnished in writing to the addressor.

ARTICLE XII

Construction

This Agreement shall be construed, and the respective rights of the parties hereto determined, according to the law of the State of New York.

ARTICLE XIII

Most Favored Licensee

In the event that LICENSOR shall grant to another party (other than a subsidiary of LICENSOR) a license to practice in the United States the inventions covered by the Licensed Patents at royalty rates more favorable than those set forth herein, LICENSOR shall so notify LICENSEE, stating the terms of such license, and, at the option of LICENSEE (exercisable within sixty (60) days after receipt of such notice), LICENSEE shall be entitled to such more favorable royalty rates from the effective date of the grant to said other party, provided, however, that LICENSEE shall also accept all other terms of such license applicable to LICENSEE's license hereunder, and provided, further, that there shall be taken into account the value of any consideration given, granted or delivered to LICENSOR by such other party in addition to such royalty rates.

ARTICLE XIV

Assignment

Either party may assign this Agreement to any of its subsidiaries, or to the successor or assignee of all, or substantially all, of its business and assets. Neither party may assign this Agreement otherwise without the other party's written consent. When duly assigned in accordance herewith, this Agreement shall be binding upon and enure to the benefit of the assignee.

IN WITNESS WHEREOF, the parties hereto have caused their corporate names to be subscribed by their duly authorized officers and their corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

NATIONAL LEAD COMPANY

By ________________
Vice President

ATTEST:

____
Secretary

THE EAGLE-PICHER COMPANY

By ________________
Vice President

ATTEST:

____
Secretary