

(It is not just a petroleum company group and we are looking for non-industry participants.)

AGREEMENT

**FOR THE CONDUCT AND FUNDING OF A RESEARCH PROGRAM ON
BENZENE**

HEALTH RISK FROM OCCUPATIONAL EXPOSURES

(on a earlier call, we agreed it is not necessary to reference China)

(on an earlier call, we agreed "Benzene Health Research Program" as the name of the project)

PURPOSE, PARTIES, AND SCOPE

1. Purpose:

- a. An agreement by and between the undersigned companies (hereafter the " Benzene Health Research Program/Shanghai Medical University Benzene Research Group" or "Research Group")
- b. The purpose of this Agreement is for the Research Group to establish and fund a research program on the lymphohematopoietic health risks from occupational exposure to benzene (hereinafter "Program") and to set the terms, conditions, and policies (sounds too much like "protocol") of this program, including allocation among the companies which constitute the Research Group of costs, including the costs of related expenditures and liabilities incurred by virtue of these jointly-supported data disclosure and testing activities. For the avoidance of any doubt, it is not the intent of the Research Group to set the scientific protocol of the study as this is the exclusive purvue of the principal investigators with oversight by the independent scientific review panel. The Research Group is committed to the scientific integrity and independence of the principal investigators and the scientific review panel.

- 2. Membership** – Participation in the Research Group is open to all manufacturers, distirbutors, suppliers and processors of benzene containing products or intermediates. Nothing in this Agreement shall preclude any member of the Testing Group from conducting its own testing, or joining any other research group.

- 2. Definition of Company** – Each manufacturer, distributor, supplier, or processor of benzene containing materials which joins the Research Group will hereafter be referred to as a "Company". For exclusive purpose of this Agreement, the term

DRAFT

“Company” for these entities shall be deemed to include the entire legal entity. (we are striving for international support.)

. Organizations who participate in the program, but who do not manufacture, distribute, supply or process benzene are also referred to a ‘Company’. Individual situations may be addressed by the Oversight Committee described in Section 7 below.

3. **Responsibility for Full Costs** – Joining the Research Group commits each Company to pay its full portion of the **dollars committed to the program**. If a Company leaves the Research Group prior to completion of the program, it shall remain liable for payment of its full **commitment** as defined in Sections 11 and 12 of this Agreement, except as provided in Section 9 of this Agreement.

Why do we need Section 5? It is not an API consortium. Suggest that we review API policies and procedures and adopt as consortium policies and procedures as appropriate.

5. **Incorporation by Reference** – With respect to conduct of the Program by API, this Agreement incorporates by reference all API Policies and Procedures. Copies of all applicable policies regarding the conduct of litigation, contracting, financial transactions and research will be provided upon request. In addition, Section 6 below will apply.

6. **Data Review:**

- (i) Subject to the study protocol and adherence to ethical standards, reports of laboratory results for tests conducted under this Agreement will be promptly distributed to the Oversight Committee established in Section 7 below, the Oversight Committee, and upon request, to any member of the Research Group. If any member of the Oversight Committee requests it, a conference call(s) or meeting(s) of the Oversight Committee will be promptly scheduled for the purposes of holding a discussion concerning the results of the data and potential for reporting under the Toxic Substances Control Act [TSCA] Section 8(e) [15 U.S. Code Sec. 2607(e)]. Other interested members of the Research Group may also participate. The Oversight Committee shall determine, in accordance with Section 7 below, whether the Joint Technical Subgroup shall file a notice on behalf of its members. The Chair or Vice-Chair of the Oversight Committee would sign such a notice on behalf of the companies in the Research Group.

DRAFT

- (ii) If filing of a TSCA Section 8(e) notice is raised for discussion and vote, the final decision shall be promptly communicated to all Research Group members.
- (iii) Each Company remains responsible for making its own decisions concerning TSCA and other governmental reporting arising out of activities under this agreement. If the Technical Committee becomes aware that any Company individually files such a report concerning data developed under this Agreement, copies will be distributed to all members.

7. Formation of Oversight Committee and Voting

For the purpose of this Agreement, with the exception of paragraph 9, (paragraph 9 = Attachment A, which Shell does not have a copy of, and, therefore, cannot comment.) the Research Group shall take actions through and by means of a deliberative body of its representatives (the "Oversight Committee"). The Oversight Committee shall consist of representatives from all the companies in the Research Group. Each member of the Oversight Committee whose company is current on invoiced contributions will have one vote. All resolutions and actions of the Oversight Committee shall be approved by a majority of no less than 2/3 of all votes cast, including all *in absentia* votes as described below in this Section. A vote may be taken only in the event of a quorum of representatives that shall have no fewer than 50% of the members of the Oversight Committee. All votes may be conducted *in absentia*, by mail, telephone,

telefax, or e-mail return ballot, within the deadline specified for the vote. Each appointed representative may also designate a proxy. Proxies do not count for purposes of a quorum.

- b. **Oversight Committee Responsibilities** – It is agreed that the Oversight Committee has authority over such administrative and managerial obligations as, but not limited to, determining the scope of the Program pursuant to Section 9 below, the approval of contracts or other agreements with investigators, approving additional expenditure of funds, and assuring that API, as the Research Group program manager, performs in conformance with the Program and this Agreement. The Oversight Committee shall have the authority to form subcommittees, including but not limited to an Independent Review Committee.

- 8. **Termination** – The Research Group may terminate some or all further work under this agreement upon a 2/3 vote among all member companies. Each member who is current on invoiced contributions (just to be consistent with voting requirements above.) will have one vote. In either case, member companies, per the terms of the respective contract(s), will pay contractual obligations already incurred by API.

DRAFT

9. **Scope** – The scope is defined in Attachment A.
Need attachment A

10. API Responsibilities

API's activities under this section shall be subject to oversight and approval by the Oversight Committee and API Policies and Procedures. API agrees to submit periodic reports on the status of the Program to the Oversight Committee and the participants.

- a. API and the Research Group agree that API will, among other duties, negotiate, enter into, and administer agreements for the conduct and the test program, and notify U.S. agencies as appropriate.
- b. Provide administrative oversight for the program.
- c. Calculate, collect and disburse the financial contributions required of the Research Group under this Agreement.
- d. Communicate results to the Research Group and others as directed by the Oversight Committee
- e. In negotiating agreements with investigators, API agrees to use its best efforts to obtain a contractual promise and insurance coverage for negligence from the investigator(s) to fully indemnify API and participating companies.

FINANCING AND ADMINISTRATION

11. Financial Contributions

- a. The estimated budget is a total sum of \$20,000,000 for all direct and administrative costs. Direct costs include the data collection, analysis, and summary of existing data; purchase, storage and analysis of test samples; characterization of the test materials; testing to be conducted by testing laboratories; monitoring and auditing of test data, and communication of results by the Oversight Committee. Administrative costs include but are not limited to: API overhead, staff salaries, travel,

DRAFT

postage and express mail services, telephone costs, and facility costs of meetings away from the API office in Washington, D.C.

- b. **NO! NO! NO! Most companies have made a specific dollar commitment. This section must be re-written to accurately reflect those commitments.**

Category	Number of Shares
U.S. Refiner (based in refinery capacity)* Small ($\leq 500,000$ bbl/day) Medium ($>500,000$ bbl/day and $\leq 1,500,000$ bbl.day) Large ($> 1,500,000$ bbl/day)	1 2 3
Non-U.S. Refiner (no U.S. refineries)	1
Free-standing Chemical Company (outside refining sector)	2
Upstream Company (no refining operations)	1
Other (trade association, government, NGO)	negotiable

*U.S. refinery capacity will be determined based upon refinery ownership as of October 1, 2000. Capacity will be calculated using the Oil and Gas Journal's 2000 Pennwell Directory.

- c. Payment schedule

12. Indemnification

PARAGRAPHS a. and b. NEED TO BE IN ALL CAPS TO MEET TEXAS LAW AND MOST STATE REQUIREMENTS.

- a. Nothing in the agreement shall be construed to limit the rights of API or any Company to seek relief against any laboratory that is negligent or violates any laws, rules or regulations in connection with the tests performed in connection herewith
- b. General Indemnification – In addition to the previous provisions in this Agreement, the Research Group agrees to indemnify API against all other liabilities arising out of this Agreement except to the extent such liabilities are caused by the negligence or breach of this agreement by API.

MISCELLANEOUS PROVISIONS

13. **Effective Date of this Agreement** – The effective date of this Agreement shall be the date of execution by both parties.

DRAFT

14. **Government Law** – This Agreement shall be governed by the laws of the District of Columbia. (Consider Delaware since that is where most companies are incorporated). Actions brought under this Agreement shall be brought in any court of competent jurisdiction in the District of Columbia (or Delaware).
15. **Interpretation of this Agreement** – If any term of this Agreement is deemed invalid or unenforceable for any reason, the remaining terms hereof shall not be effected, impaired or invalidated and shall remain in full force and effect.
16. **Modification of this Agreement** – This Agreement may be amended only by a written addendum agreed to and signed by each member of the Research Group.
17. **Successor Liability** – The obligation imposed under this Agreement shall apply to the legal successors and assigns of the Research Group members, including any acquirer of all or substantially all of the assets of such a Company or Companies, or API.
18. **Termination Date** – Except as provided by paragraph 8, this Agreement and the program for which it provides shall terminate no sooner than January 1, 2005 (Is this realistic? I thought it was a 5-year study. September 1 2001 + 5 = September 1, 2006) and no later than 2 years after completion of the last study.
19. **Signature** – This Agreement may be signed in multiple counterparts, which together shall constitute a single Agreement.

DRAFT

Ratification and Execution of the
AGREEMENT
FOR THE CONDUCT AND FUNDING OF A RESEARCH PROGRAM ON
BENZENE
HEALTH RISK FROM OCCUPATIONAL EXPOSURES

ACCEPTED FOR:

Company

Name Signed

Name Typed

Title

Date

Telephone: _____; Fax: _____; Email: _____

Contact person (If different than signer above:)

Name and Title

Telephone: _____; Fax: _____; Email: _____

DRAFT

Ratification and Execution of the
AGREEMENT
FOR THE CONDUCT AND FUNDING OF A RESEARCH PROGRAM ON
BENZENE
HEALTH RISK FROM OCCUPATIONAL EXPOSURES

ACCEPTED FOR:

American Petroleum Institute (not sure that it is API that we are
contracting with. Aren't the companies contracting with the "Research Group?"

Name Signed

G. Williams Frick

Vice President, General Counsel & Secretary
Title

Date

(Name Signed)

Brenda Hargett

Chief Financial Officer
(Title)

(Date)