

THE ANACONDA COMPANY

25 Broadway

New York 4. N.Y.

OFFICE OF THE
METALLURGICAL MANAGER

April 17, 1962

April 30, 1962
Copies to Messrs:
E. I. Hancock
L. J. Ingvalson
W. B. Stearns
A. B. Kane
C. J. Parkinson
W. R. Quigley
C. N. Zeltner
D. B. Geary
R. J. Lopez

The Eagle-Picher Company
Cincinnati
Ohio

Attention: Mr. D. R. Carter, Vice President

Gentlemen:

Our contract with you dated December 1, 1961, provides for the sale to Eagle-Picher of one hundred tons per month of sime fume produced at the East Helena Slag Treating Plant of The Anaconda Company.

This letter confirms my verbal agreement with you to interrupt deliveries of this fume during the month of May 1962, resuming deliveries in June 1962.

All other terms and conditions of said Agreement shall continue in force unchanged by this amendment.

If the foregoing is acceptable to you, please sign and return to us the enclosed copy of this letter, whereupon the contract shall be deemed amended in accordance with the terms hereof.

Yours very truly,

THE ANACONDA COMPANY

By /s/ T. E. Graham

ACCEPTED AND AGREED:

EAGLE-PICHER COMPANY

By /s/ D. R. Carter

CC: Mr. A. Dodd

PNYC 00011755

THIS AGREEMENT made as of the first day of December, 1961, by and between THE EAGLE-PICHER COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, herein called "Eagle-Picher" and THE ANACONDA COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Montana, herein called "Anaconda",

W I T N E S S E T H :

For and in consideration of the mutual promises and covenants herein contained to be kept and performed by each of the parties respectively, Anaconda hereby agrees to sell to Eagle-Picher and Eagle-Picher does hereby agree to accept and purchase the quantity as hereinafter defined of zinc fume as herein described upon the terms and conditions and for the period hereinafter set forth.

1. TERM: This contract shall become effective on December 1, 1961 and will continue in force on a month-to-month basis thereafter until cancelled by either party by giving thirty (30) days' prior written notice of such cancellation to the other.

2. MATERIAL: Zinc fume produced at the East Helena Slag Treating Plant of Anaconda during periods in which either all hot slag or a combination of hot slag and dump slag are being treated.

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3. QUANTITY, QUALITY AND DELIVERY: Anaconda agrees to deliver to Eagle-Picher in railroad cars at Galena, Kansas, and Eagle-Picher agrees to accept and purchase, one hundred (100) tons per month of the above-described zinc fume.

Anaconda agrees to deliver fume of substantially the same analysis as the fume samples previously submitted to Eagle-Picher. Eagle-Picher agrees to accept and purchase the same, but with the right to stop shipments by Anaconda from its East Helena, Montana plant if the iron content exceeds 0.040%, provided such shipments have not been loaded for shipment before a notice is received from Eagle-Picher.

4. FREIGHT: Eagle-Picher will pay freight charges from East Helena, Montana, to Galena, Kansas, on all zinc fume shipped hereunder.

5. DEFINITIONS: A "ton" as used in this Agreement is understood and agreed to be a ton of two thousand (2,000) pounds avoirdupois.

The term "pound" shall mean a pound avoirdupois.

6. PAYMENTS: Eagle-Picher shall pay Anaconda for one hundred percent (100%) of the zinc and lead contained in the zinc fume delivered hereunder as follows:

A. ZINC: Ten and two hundred seventy-five one-thousandths cents (10.275¢) per pound, based upon

an East St. Louis quotation for Prime Western zinc of thirteen cents (13¢) per pound. Such ten and two hundred seventy-five one-thousandths cents (10.275¢) per pound price shall be adjusted by the addition or subtraction of nine tenths of a cent (0.9¢) per pound for each one cent (1.0¢) that the quotation for Prime Western zinc at East St. Louis is above or below thirteen cents (13¢) per pound, fractions in proportion.

B. LEAD: Eight-tenths of a cent (0.8¢) per pound for each one cent (1.0¢) that the New York City quotation for common lead is above six and five-tenths cents (6.5¢) per pound, fractions in proportion.

C. From the above calculated price, deduct ten dollars (\$10.00) per dry short ton of East Helena fume, effective with the date of contract.

7. METAL QUOTATION: The New York City quotation for common lead and the East St. Louis quotation for Prime Western zinc, above referred to, shall be the average of the daily quotations for those metals published by the Engineering and Mining Journal for the week of delivery of the fume to Eagle-Picher's Galena, Kansas Plant.

8. WEIGHING AND SAMPLING: Each carload of fume shipped hereunder shall be weighed, sampled and moisture determination made on such sample by Eagle-Picher at the Plant of delivery in accordance with standard practices and without cost to Anaconda. Anaconda shall have the right to have a representative present. Three (3) samples for assaying shall be properly made, one (1) of which shall be delivered to Anaconda or its representative, one (1) retained by Eagle-Picher, and one (1) shall be sealed and retained by Eagle-Picher in a suitable place for use of an umpire. Eagle-Picher agrees to use proper scales for weighing the fume and for making the samples and determining the moisture, and it is agreed that Anaconda's representative shall have the right to inspect and check at any time any scales or sampling methods in use by Eagle-Picher.

9. ASSAYING: It is agreed that the analyses for zinc and lead shall be made by standard wet methods. Payment and settlement hereunder shall be made according to the average of Eagle-Picher's analyses and Anaconda's analyses when the analyses agree within the following splitting limits:

Zinc	-	0.5%
Lead	-	0.3%

If Eagle-Picher's analysis and Anaconda's analysis in the case

of either metal are apart by more than the splitting limits above prescribed, the analysis shall be determined by an umpire chosen by and agreeable to both parties. Should the umpire's result be lower than the lower analysis by either party or higher than the higher analysis, settlement shall be made upon the analysis of the party nearest that obtained by the umpire. Should the umpire's result fall between the analyses of the parties, settlement shall be made according to the umpire's analysis. It is agreed that the party whose analysis varies the most widely from the umpire's analysis shall pay the cost of the umpire's analysis.

10. SETTLEMENT: Settlement shall be made as soon as assays on carload lots have been agreed upon by the parties hereto.

11. TAXES: Any sales, use or other tax on the sale of the zinc fume hereunder shall be for the account of Eagle-Picher.

12. FORCE MAJEURE: In case either party hereto shall be prevented from carrying out the provisions of this contract by reason of strikes of any kind affecting the operations, floods, fires, acts of God, shortage of cars, shortage of electric power, plant breakdown, inability to secure sufficient labor for operation of plant, war or insurrection, financial crises, traffic interruptions, governmental regulations, restraint or injunction, or other legal process from which the

party affected cannot reasonably relieve itself by giving security or otherwise, or by reason of any other cause which is beyond the control of the affected party, such party hereto shall not be held liable to the other for damages on account of failure or default so caused. In addition, Anaconda shall not be liable for failure to deliver fume as provided herein if such failure is caused by curtailment or shutdown for whatever reason of the American Smelting and Refining Company lead smelter at East Helena, Montana.

13. NOTICES: Any notice provided for in this Agreement shall be given by one party to the other by letter addressed to the office of The Anaconda Company at Great Falls, Montana, and to the office of The Eagle-Picher Company at Cincinnati, Ohio, as the case may be, and notice shall be construed to be complete at the time of the mailing of such notice or letter.

IN WITNESS WHEREOF, the parties hereto have caused their corporate names to be signed hereunto and seals affixed by their officers in their behalf duly authorized the day and year first above written.

THE EAGLE-PICHER COMPANY

ATTEST:

By /s/ M. M. Zoller
Vice President

By /s/ Charles S. Dautel
Asst. Secretary

THE ANACONDA COMPANY

ATTEST:

By /s/ E. S. McGlone
Executive Vice President

By /s/ T. E. Tatem
Asst. Secretary

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