FILE NAME: Rogers Corporation (ROG)

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DOCUMENT DESCRIPTION: Memo RE Liability Responsibility for Asbestos & Asbestos Containing Products

March 29, 1976

SUBJECT: LIABILITY RESPONSIBILITY FOR ASBESTOS AND ASBESTOS CONTAINING PRODUCTS

FROM: J. J. Abell

TO: M. Kupsaw, W. A. Hayes, W. F. Ames, E. J. Sweeney, D. P. Bell, A. D. Heilemann, R. C. Berry, C. Maron, L. A. Walters, E. S. Smith, A. J. Dontje, C. R. Welshman

INFO: H. H. Birkenruth, N. L. Greenman, H. E. Brooks, R. L. Smith, C. A. Bergheimer, F. J. Jones, F. A. Keery, H. A. Raphaelson

The supplier of one of our critical asbestos raw materials, Bell Asbestos agent for Cassiar AX, require that we sign a contract for our purchases. Without a signed contract they will not sell us asbestos. They are doing this on advice of their attorney. The critical passage in the contract is Paragraph 13 (d) as noted on the attached.

Besides being sure that we are doing what we have to in our plant, perhaps we should consider what steps we have to take to protect ourselves from our customers and our customer's customers.

JJA:jb

FORCE MAJEURE

(a) Seller shall not be responsible either for non-shipment or for any deliveries being delayed or prevented, nor shall the Buyer be responsible for failure to take delivery caused in whole or in part by force majeure. The term "force majeure" shall include, without limitation, the following enumerations: strikes, lockouts, labour and civil disturbances; acts of God, including fire, earthquakes, volcanic eruptions, floods, landslides, adverse weather conditions, unavoidable accidents; laws, rules, regulations or orders of any government or agent or instrumentality thereof, whether domestic or foreign, having at any time de facto or de jure control over the Seller or Buyer, acts of war whether declared or undeclared; unavailability of essential equipment, material or labour or restrictions thereon or limitations upon the use thereof, delays in transportation or communication or other causes reasonably beyond the control of the Seller or Buyer whether similar or dissimilar to the causes herein specified. The settlement of strikes, lockouts and labour disturbances and the decision of whether to question or to test the vilidity of any government law, rule, regulation or order shall be wholly within the discretion of the party concerned. If the Seller or the Buyer claims force majeure, that party shall so notify the other in writing specifying the nature of such force majeure and the date of commencement thereof. Upon the force majeure having terminated or ceasing to have effect, the claiming party shall so notify the other.

(b) If stoppage of or delay in deliveries of asbestos fibre is occasioned by any one or more of the above causes or in the event or consequence of any cause whatsoever beyond the reasonable control of the Seller, the deliveries of asbestos fibre affected, where they are not wholly prevented, may, at the option of the Seller, either be cancelled in whole or in part or be wholly of partially suspended. In the case of suspension the Buyer may accept or cancel all or part of the suspended tonnage and the time of delivery of the accepted portion will be by mutual agreement in writing.

12. SPECIAL CONDITIONS

All asbestos fibre supplied hereunder shall be used by the Buyer in its own factory or factories and not re-sold by the Buyer in an unmanufactured state, without the express permission of the Seller.

13. GENERAL CONDITIONS

(a) If the Buyer defaults in payments hereunder or becomes subject to bankruptcy laws or goes into liquidation for any purpose other than reconstruction or reorganization, the Seller may at its option withhold all or any further deliveries for such time as the Seller thinks fit or cancel the balance of deliveries under this Agreement.

(b) Any warranties or conditions, statutory or otherwise, or suitability for any purpose are excluded except where specifically herein agreed.

(c) Where sale of the asbestos fibre is with a certificate supplied by an independent inspection authority, the certificate (the charge for which is payable by the Buyer) shall be conclusive as to the matters certified.

(d) Claims against the Seller or its Agent related directly or indirectly to the Buyer's acquisition of asbestos fibre from the Seller in respect of consequential loss, damages, personal injuries, diseases, or death, however arising, are not the responsibility of the Seller or its Agents and the Buyer hereby expressly waives any of its rights as against the Seller or its Agent with respect to any such claims. The Buyer undertakes and agrees to save harmless and indemnify the Seller and its Agent from all expenses, costs and damages arising from all such claims. The Buyer undertakes and agrees to adequately warn its employees, agents and customers of the possible dangers in exposure to, handling, use of or processing of asbestos fibre and in particular by breathing air or ingesting food or water containing asbestos fibre. Consistent with such duty to warn, the Buyer undertakes and agrees to provide necessary safeguards to its employees and agents who handle asbestos fibre or products of the Buyer which contain asbestos fibre.

(e) The Seller warrants the asbestos fibre sold hereunder shall meet its standard specifications.

14. APPLICABLE LAW AND INTERPRETATION

This Agreement shall be governed by and subject to all applicable and valid laws and regulations fo the Province of British Columbia and Canada. If any provision hereof is contrary to any such law or regulation, this Agreement shall be regarded as modified accordingly and, as so modified, shall continue in force and effect. This Agreement shall be interpreted exclusively by the applicable Courts of the Province of British Columbia including any Courts of Appeal therefrom.

15. CANADIAN FUNDS

All payments by the Buyer under this Agreement are payable exclusively in lawful money of Canada unless otherwise specifically agreed in writing.

16. NOTICE

Any notice required or permitted under the Agreement shall be given in writing by personal delivery or by prepaid registered air mail, or by prepaid telegram, telex or cable, adressed as follows:

To the Seller or its Agent:
Bell Asbestos Mines, Ltd., Agent,
P.O. Box 99,
Thetford Mines, Quebec,
Canada, G6G 5S4

To the Buyer:
Rogers Corporation,
Rogers, Conn. 06263 U.S.A.

or such other address as either of the parties may from time to time designate in writing to the other. Any notice sent by prepaid registered air mail shall be deemed to have been received by the party to whom addressed ten (10) days from the date of postmark. Any notice sent by prepaid telegram, telex or cable shall be deemed to have been received by the party to whom it was addressed three (3) days after the time of dispatch.