PLAINTIFF'S EXHIBIT

BIR-459

August 20, 1963

Mr. R. L. Donahue
Senior Project Engineer
Fire Protection Department
Underwriters' Laboratories, Inc.
P.O. Box 247
Northbrook, Illinois

Dear Bob:

Attached you will find a properly executed application for further Class A Fire Tests under your assignment number 63K3074. The check for the initial payment is also attached.

Inasmuch as we have not heard from Charleston, we are assuming that your inspector will be there bright and early on Thursday morning, the 22nd. From then on, it will again be a question of when we can run the tests.

We have not yet developed a particularly sophisticated method of determining the characteristics of the intumescent granule. However, a test that I think will satisfy your requirements is to simply put a few granules in a 3 oz. seamless ointment tin and place the tin on a standard electric hot plate. The hot plate is turned to its high position and within a matter of a minute or two, the glossy, rather colorless coating on the granule intumesces becoming a white fairly friable film. Normal roofing granules have absolutely no reaction to this type of test. If this requires more sophistication, please do not hesitate to let me know.

Anxiously awaiting our next visit to your laboratories in Northbrook.

Sincerely,

BUILDING MATERIALS DIVISION

Stanley H. Sallie
Product Development Manager

SHS/rp
Attach.

PRINTED IN U. S. A.
FORM 2900-3 25M 9-60

RLD
8-15-63

APPLICATION

For Examination, Test, Report, and Listing

Applicant — Please Do Not Modify Application

To:
Underwriters' Laboratories, Inc.*

Return to Address Indicated:
- ☐ 207 E. Ohio St., Chicago 11, Ill.
- ☒ P. O. Box 247, Northbrook, Ill.
- ☐ 161 Sixth Ave., New York 13, N. Y.
- ☐ 1655 Scott Blvd., Santa Clara, Cal.

Please Do Not Write in Space Below

File No. R46
Assignment No. 63K3074
Guide No. 360 019
Accepted by ..... Date .....
Acknowledged by ..... Date .....

1. We make application for examination, test, report, and Listing under LABEL Service of ROOF COVERING MATERIALS, PREPARED
(Laboratories Classification)
300 LB ASPHALT ORGANIC-FELT SQUARE TAB STRIP SHINGLE,
(Product name, catalog number, etc.)
INTENDED FOR INSTALLATION AS A CLASS A PREPARED ROOF COVERING,
manufactured by BIRD & SON, INC.
(Name of ACTUAL manufacturer)
at CHARLESTON, S.C.
(Street and city address of FACTORY in which product is to be made)

2. We desire to have the Listing appear in the published records of Underwriters' Laboratories, Inc. as follows:

Name BIRD & SON, INC.

Address EAST WALPOLE, MASS.

3. A Preliminary Deposit of $ 500. accompanies this Application, to be credited against the cost of the work authorized (See Note 2, Page 2). The total cost is not to exceed $1250. in accordance with the terms below.

4. Costs in excess of the Preliminary Deposit, up to the limit set above, are due and payable without discount upon completion of the work, and upon presentation of invoices. In the case of extensive or long-continued investigation, it is understood that invoices may be rendered monthly. Any unexpended portion of the Preliminary Deposit is to be returned upon completion of the work or held as a credit, as we may elect. Traveling expenses, carriers' charges, and other advances are not included in the above limit of costs.

5. It is understood that our obligation for costs accruing under this application is the same whether the opinion rendered does or does not result in Listing.

6. The total cost (Section 3 above) covers only one examination and one set of tests on the device, system or material detailed in Section 1 above; concluded by a report of the results obtained. It is understood, in event of further examination and tests of improved or additional samples, that a new application (or a supplementary application) and another Preliminary Deposit with a new cost limit may be required.

7. Also, we accept the specified SERVICE (Section 1 above), contingent upon the Listing of the product, in accordance with conditions set forth in the following paragraphs.

EKS:ph

(Over)

*REG. U. S. PAT. OFF.

8. If the product submitted is found to be in compliance with your requirements, you are to List it with the name previously indicated (Section 2 above) in the appropriate published records of Underwriters' Laboratories, Inc. You are also to describe it in a Procedure, which will be loaned to us while listing is in effect. The Procedure, which is not transferable, will specify the label or equivalent designated marking which we are to utilize to identify only the product manufactured by us exactly as described in the Procedure and only at the address authorized.

9. Changes in the Listed product, or additions to the Listed line are to be submitted to Underwriters' Laboratories, Inc. for review. If the changes or additions are judged to be in compliance with your requirements, the Procedure will be revised accordingly. It is understood that the cost incurred incident to the examination and tests, if required, will be charged to us on the same basis as a new investigation.

10. We also accept the Minimum Ready-to-Serve Charge of $48.00 per calendar year per factory location, provided that for any partial year of Service the charge is to be prorated at $4.00 per month for the period the listing is in effect. Against this minimum charge you are to credit Label Service Charges for labels delivered during the year and/or Inspection Charges invoiced during the year for Die-Label Service, Inspection Service, or Inspection and Certificate Service.

11. It is understood that the Listing, the Service specified, and charges, shall be continuous, but may be terminated by ourselves or by Underwriters' Laboratories, Inc. upon thirty (30) days' written notice one to the other. Failure to use the label of Underwriters' Laboratories, Inc. or equivalent designated marking on the product covered by this Application for a period of two consecutive calendar years is acknowledged to be sufficient justification for termination, by Underwriters' Laboratories, Inc., of the Listing and Service specified for such product. Notice of termination of Listing and Service shall be sufficient if deposited in the regularly established depositary for United States Mail, postage prepaid and registered or certified, addressed to the party to be notified at his last known address as furnished to the other party. The period of such notice shall be deemed to commence upon deposit of said notice in the United States Mail. We agree that if Listing and the specified Service are terminated we will discontinue thereafter any reference to Underwriters' Laboratories, Inc. on the product, in advertising or otherwise.

12. We agree to extend to the representatives of Underwriters' Laboratories, Inc. all necessary assistance and facilities for the proper conduct of thorough and complete inspection of our commercial product.

13. It is understood that examinations, tests, and findings resulting from this application impose responsibilities upon Underwriters' Laboratories, Inc. only within the limits of its purposes and policies, as set forth in the booklet "Testing for Safety" of current date. Receipt of a copy of this book is acknowledged. The limitations therein outlined are mutually agreed to be incorporated in this agreement. Also, your letter dated AUGUST 15, 1963 from M. R. L. DONAHUE transmitting this Application is hereby incorporated in and made a part of this Application, and the Application, if accepted by Underwriters' Laboratories, Inc., is subject to the conditions outlined in said letter.

14. Underwriters' Laboratories, Inc. is hereby privileged and authorized to circulate or publish such accounts and pertinent related data as it may deem advisable or in the public interest, concerning principles, methods, developments, or performance which may be disclosed in its examinations and tests under this application, whether resulting in acceptance or otherwise; except such information as we may specify to you as confidential.

15. Valuation of Samples—The samples that ~~have been~~ or ~~will be~~ shipped to Underwriters' Laboratories, Inc. on this application are valued at $.....for shipping insurance purposes.
(cross out one)

BEFORE SIGNING, read the application carefully. For additional information see attached sheet, "Suggestions to Applicants," and booklet, "Testing for Safety." (Extra copies sent on request.)

Applicant BIRD & SON, INC.
(Name of company or individual submitting application)

By R. F. Jenkins, Exec. Vice President
(Signature of individual, an authorized officer of company. *(Give Title)*

R. F. Jenkins
(Typed name of individual signing for company)

Address East Walpole, Massachusetts

Date August 20, 1963

Applicant's Representative Stanley R. Sallis
(Name of applicant's representative designated to receive correspondence from Underwriters' Laboratories, Inc.)

Applicant's Purchase Order No. 40950

To be executed by applicant not later than AUGUST 30, 1963

SPECIAL NOTES

1. Please instruct your shipping department to prepay carrier charges on samples and to mark packages PREPAID to avoid duplication of payment on delivery. Send bill of lading promptly for attention of Receiving Department, Underwriters' Laboratories, Inc. and show name of engineer with whom you have been dealing.

2. The check for the Preliminary Deposit should be issued in the name of the company or individual submitting the application. In the event that the check is issued by a party other than the applicant, a letter from the signer of the check should accompany the application and should waive all rights to and interest in the benefits of the investigation conducted under the application.

FOUNDED 1894

Underwriters' Laboratories, Inc.®

For Service - Not for Profit

SPONSORED BY

National Board of Fire Underwriters

P.O. BOX 247
NORTHBROOK, ILL.

IN ANSWERING
PLEASE REFER TO

August 15, 1963

R46
63K3074

Mr. Stanley H. Sallie
Product Development Manager
Bird & Son, Inc.
East Walpole, Mass.

Dear Stan:

Please excuse this tardy response to your July 29 letter as I have just returned from a vacation.

We understand that you wish to resubmit your Class A shingle as made at your Charleston plant. It is to be similar to that submitted under Assignment 63K2119 which recently failed the Spread-of-Flame Test and differs only in that No. 9 granules are used on the surface rather than No. 11.

Accordingly, we are enclosing an application form in duplicate for this purpose. Please have the original signed by an authorized officer of your company and returned to us with the indicated preliminary deposit. The carbon copy is for your own file records.

Since you indicate that August 22 has been scheduled for a production run, we are alerting our Charleston inspector. If this date is not convenient for him, he will advise your plant manager and they can arrange another mutually agreeable date. In anticipation of your early return of the executed application form and preliminary deposit, we have opened an assignment under No. 63K3074.

Regarding the special granules utilized on the first layer of coating, please advise us as to whether or not they are received in specially marked containers and what tests you conduct to assure yourself that they are the specially treated granules you specified.

Very truly yours,

R. L. DONAHUE
Senior Project Engineer
Fire Protection Dept.

RLD:ph