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SUPPLY AGREEMENT TO

MONSANTO COMPANY

FOR

COMPRESSED AIR FOR THE MONSANTO PENSACOLA PLANT

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COMPRESSED AIR FOR THE MONSANTO PENSACOLA PLANT

THIS AGREEMENT is made and entered into as of the 8th day of July, 1988, by and between MONSANTO COMPANY, (hereinafter referred to as "Buyer"), (a Delaware corporation) having offices at 300 North Lindbergh Boulevard, St. Louis, Missouri, 63167 and NIJECT SERVICES COMPANY, a general partnership of Ingersoll-Rand Enhanced Recovery Company (a Delaware corporation) and UCAR Energy Services Corporation, (a Delaware corporation) having its principal office at One Williams Center, Suite 2320, Tulsa, Oklahoma, 74172 (hereinafter referred to as "Seller").

WHEREAS, Buyer requires substantial quantities of compressed air which are essential for use in a maleic process at its maleic anhydride plant located at Pensacola, Florida and has requested Seller to supply such quantities of compressed air from an air compression plant to be constructed, owned, and operated by Seller on the premises of Buyer; and

WHEREAS, Seller understands the needs of Buyer and is willing to design, construct, install, own, operate and maintain the plant at Seller's expense on the site to be furnished by Buyer with which plant Seller will provide the aforementioned Compressed Air to Buyer;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein, Buyer and Seller agree as follows:

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ARTICLE 1

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DEFINITIONS

Terms used in this Agreement shall have the following meanings:

- 1.1 "Air Distributing System" means the system of pipelines to be constructed, owned, operated and maintained by Buyer and used to transport Compressed Air from the Plant to the various use points at Buyer's Plant.
- 1.2 "Buyer's Plant" means Buyer's modified and expanded Maleic Anhydride plant at Pensacola, Florida.
- 1.3 "Compressed Air" means compressed atmospheric air which is delivered hereunder meeting the specifications per Exhibit C.
- 1.4
- 1.5
- 1.6

1.7 "Delivery Points" (or the singular "Delivery Point", as applicable) means the location(s) of the Plant's flanges and the respective connecting points:

a) for the following supply streams:

- a-1) the cooling water supply line
- a-2) the domestic water supply line
- a-3,4) the Electric Power Service lines (12.47 KV and 490 V)
- a-5) the instrument air supply line
- a-6) the nitrogen purge supply line
- a-7) the plant air supply line
- a-8) the process water supply line
- a-9) the steam supply line

b) the following delivery streams:

- b-1) the Air Distributing System
- b-2) the cooling water return line
- b-3) the steam return line
- b-4) the Waste Water disposal line

1.8 "Electric Power Service" means the electric power provided or caused to be provided by Buyer to Seller as set forth in Article 2.5 and Exhibit F.

1.9 "kSCF" means one thousand (1,000) cubic feet of gas at an absolute pressure of fourteen and sixty-nine one hundredths (14.69) pounds per

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square inch and a temperature of sixty degrees (60°) Fahrenheit.

"kSCFD" means kSCF per day. The term "MSCF" as used herein shall mean one thousand kSCF and "MSCFD" shall mean one thousand kSCF per day.

- 1.10 "KWH" means Kilowatt hour.
- 1.11 "Plant" means the facilities to be designed, constructed, installed, owned, operated, and maintained by Seller for the purpose of providing Compressed Air to Buyer, and as described in Exhibit H.
- 1.12 "Plant Site" means the plot of land as set forth in Exhibit D, to be furnished by Buyer to Seller, for Seller's use hereunder, for the construction, installation, operation and maintenance of the Plant.
- 1.13 "PSIA" means pounds per square inch absolute.
- 1.14 "PSIG" means pounds per square inch gauge.
- 1.15 "Start-Up Date" means the date the Plant is ready to provide Compressed Air as specified in a written notice by Seller to Buyer.
- 1.16 "Utilities" means cooling water, domestic water, Electric Power Service, fire water, instrument air, nitrogen purge gas, plant air, process water, and steam to be supplied to the Plant by Buyer, and cooling water, steam and Waste Water, received by Buyer from Seller all of which are described in Exhibit H.

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1.17 "Waste Water" means Plant waste water disposed of by Buyer including oily water with incidental amounts of lubricants and process waste water, but excluding sewage.

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ARTICLE 2

FACILITIES

- 2.1 During the Term of this Agreement, Seller, at its expense, shall design, construct, install, own, operate and maintain the Plant at the Plant Site. The Plant shall be and remain the property of Seller at all times except as otherwise provided in Article 8.2. Except as outlined in Article 8.2 and Article 10.5, Seller shall remove the Plant within two (2) years after expiration of this Agreement pursuant to Article 3.10, or termination pursuant to Article 8.3 or 8.4 subject to delays permitted pursuant to Article 12.2.
- 2.2 During the Term of this Agreement, Buyer, at its expense, will provide to Seller the use of the Plant Site and grant access to the Plant Site.
- 2.3 A plot plan of the Plant Site and the Plant, contained in Exhibit C, shows the location of the Delivery Points.
- 2.4 Buyer, at its expense, will construct, own, operate and maintain the Air Distributing System and extend it to the Compressed Air Delivery Point(s) on the Plant Site set forth in Exhibit D. The Air Distributing System will remain the property of Buyer at all times.
- 2.5 Seller, at its expense, shall provide facilities to receive Electric Power Service from Delivery Points on the Plant Site which Seller designates. Buyer, at its expense, shall provide, in accordance with the

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specifications set forth in Exhibit F, facilities to deliver Electric Power Service reasonably required by Seller for the construction, start-up, and operation of the Plant during the term of this Agreement and any extensions thereof. Seller, at its expense, shall install the necessary equipment within the Plant Site to protect Seller's electrical feeder line to the air compressor motor in accordance with established codes and good engineering practice.

2.6 Seller, at its expense, shall provide facilities to receive inflowing Utilities from Buyer, and provide outflowing Utilities to Buyer at the Delivery Points described in Exhibit D and within amounts and operating conditions as specified in Exhibit H. Buyer, at its expense, will provide and receive said inflowing and outflowing Utilities respectively.

2.7 Seller, at its expense, will prepare the Plant Site and provide a suitable drainage system such that Waste Water and oils can be received by Buyer at one Delivery Point as shown in Exhibit D. Buyer, at the time of construction and at its expense, will provide a Plant Site which, to the best of its knowledge is free from underground and overhead obstructions. If at any time any obstructions, significant amounts of any toxic or hazardous materials not attributable to Seller or its representatives are found on the Plant Site, they will be removed by Buyer at Buyer's expense. Seller, at its expense, will perform any necessary soil tests.

2.8 Buyer will use reasonable efforts to relocate the existing underground butane line outside the Plant Site by January 1, 1989.

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2.9 Buyer grants to Seller the right of access to the Plant Site for the term of this Agreement, and, thereafter, for the period of two (2) years for the removal of the Plant. Buyer, at its expense will provide a roadway suitable for a tractor trailer 60 feet long and weighing 80,000 pounds to such Plant Site acceptable to Seller and railroad access, when available for this project.

2.10 Buyer will prevent persons other than Seller's representatives or Buyer's employees or representatives authorized by Seller from entering the Plant Site or altering, repairing or adjusting or otherwise tampering with the Plant. Buyer will prohibit storage of flammable or corrosive materials within 100 feet of the Plant Site, except for such storage in effect on the date that Seller approves the location of the Plant Site or other storage later consented to by Seller, such consent not to be unreasonably withheld. Both parties will comply with the more stringent of Buyer's or Seller's Safety requirements with regard to all activities within the Plant Site and will cause all of their employees, agents, representatives, contractors, subcontractors and suppliers to do likewise.

Seller, with regard to the area and activities outside the Plant Site but within the Pensacola plant site, will comply with Buyer's Safety requirements, and will cause all of its employees, agents, representatives, contractors, subcontractors, and suppliers to do likewise. Both parties will comply with applicable laws and regulations.

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- 2.11 Seller, at its expense, will install and maintain a suitable boundary marker to contain the Plant with signs stating unauthorized entry is prohibited. Buyer will have access to the Plant at any time for only the following reasons: monitor equipment, Buyer's safety requirements, emergency shutdown, fire fighting and security, and for reasons set forth in Article 4.4.4.
- 2.12 Seller shall not bring into, dispose, use, or release into Buyer's Plant or Seller's Plant any hazardous materials, chemicals, substances or waste (hereinafter "Materials") without prior written approval of Buyer, such approval not to be unreasonably withheld. If approval is given by the Buyer, the Seller shall handle all such Materials in compliance with all applicable laws and regulations including Buyer's Pensacola Plant regulations as presented to Seller. Seller shall be liable for all cleanup costs and penalties of any Seller's acts or omissions resulting in any release to the environment in violation of the law with respect to such Materials, and Seller shall indemnify Buyer for all such cleanup costs and penalties which Buyer incurs as a result of Seller's breach of the foregoing obligations; provided, that Buyer shall substantiate all such costs and penalties. In the event such releases are caused jointly by Buyer and Seller, then such parties shall share in the costs of such cleanup to the degree responsible.
- 2.13 Seller will not discharge liquid or solid waste that will change the classification of the entire Pensacola plant site into a hazardous waste facility. Seller shall indemnify Buyer for all cleanup costs and penalties which Buyer incurs as a result of Seller's breach of the

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foregoing obligations; provided, that Buyer shall substantiate all such costs and penalties. In the event such releases are caused jointly by Buyer and Seller, then such parties shall share in the costs of such cleanup to the degree responsible.

- 2.14 Seller will inform Buyer of any changes which may occur in the Seller's partnership structure which may materially affect Seller's performance hereunder. Seller will inform Buyer of any change in the authorization of Seller or Seller's partners to continuing business operations in the State of Florida.
- 2.15 Seller retains the right to make modifications and changes to the Plant as Seller deems proper for the operation and maintenance of the facilities. Any substantial changes will be submitted to Buyer for prior review and comment.

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ARTICLE 3

SERVICES TO BE PROVIDED

- 3.1 Commencing on the Start-Up Date and continuing during the term of this Agreement, Seller shall deliver Compressed Air to the Delivery Point, and Buyer shall receive, accept and pay for such Compressed Air.
- 3.2 Buyer shall supply and accept Utilities at the Delivery Points.
- 3.3 Seller shall provide Compressed Air as defined in Exhibit C; however, Seller shall not be obligated to deliver Compressed Air when the Utilities provided and accepted at the Delivery Points are not in compliance with Exhibit H, or the delivered Compressed Air flowrates and pressures required by Buyer are not within the design conditions of the Plant as set forth in Exhibit C.
- 3.4 Seller will obtain, at Buyer's expense and with Buyer's reasonable written approval, all necessary governmental licenses, permits, certificates or approvals for construction and operation of the Plant. Buyer will provide assistance as necessary and as reasonably requested by Seller to obtain these permits. Seller shall comply with all applicable laws, rules and regulations relating to the design, construction installation, operation and maintenance of the Plant.
- 3.5 Seller shall use its best efforts to complete and start-up the Plant by September 30, 1989.

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- 3.6 Seller at all times will remain as an independent contractor. Seller and Buyer will advise each other as necessary concerning operations. Seller as an independent contractor will pay and discharge all costs and expenses incurred in connection with the operation of the Plant except for Electric Power Service, Waste Water disposal, and property taxes which shall be prepaid by Seller and billed to Buyer or paid directly by Buyer, in either case at Buyer's sole expense. All Plant personnel shall be employees of, or contracted to, Seller.
- 3.7 Seller will furnish the supervision and trained personnel for the operation and maintenance of the Plant. The operating procedures followed will be in accord with the current procedures used by the Seller's production organization, with the objective of achieving safe and efficient delivery of Compressed Air.
- 3.8 Seller understands that the supply of Compressed Air hereunder is essential for use in Buyer's maleic process and Seller hereby dedicates the Plant capacity to the exclusive compression of air for Buyer's Plant whether or not Buyer makes use of such capacity.
- 3.9 The design of the Plant is predicated on the existence of an air source which is reasonably free of corrosive components, hydrocarbons, impurities or particulate. If Buyer installs new operations in the vicinity of the Plant or materially changes existing operations in the vicinity of the Plant which cause atmospheric contaminants and such emissions create conditions which demonstrably affect safe or reliable operations of the Plant or imposes or results in additional maintenance,

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repair, operational or replacement requirements of the Plant, then Buyer, at its option upon receipt of written notice and reasonable evidence from Seller of the existence of such contaminants shall proceed in good faith to (1) correct such condition by removal or modification of such contaminant source; (2) reimburse Seller at cost for the costs of additions or modifications to the Plant or its components reasonably necessary to alleviate such conditions for safe or reliable operation; (3) reimburse Seller for increased direct Plant operational, maintenance, repair or replacement costs incurred by Seller attributable to such contaminants; or (4) terminate this Agreement under the provisions of Article 8.3.

3.10 Seller at its expense will clear the Plant Site of all above ground equipment to six (6) inches below grade and piping installed and owned by Seller within two (2) years after the expiration or termination of this Agreement or any extension thereof, whether by expiration pursuant to Article 8.1 or termination pursuant to Article 8.3.

3.11 Seller at its expense will be responsible to promptly replace or repair any part removed from service and replaced by a spare part.

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ARTICLE 4

CONSIDERATION, PRICE AND CHARGES

4.1 On the first day of each calendar month following the Start-Up Date during the term of this Agreement, Buyer shall pay to Seller, the _____, and any applicable sales, use, or similar taxes now, or hereinafter imposed on such Compressed Air.

4.2 At the end of each calendar month following the Start-Up Date, Seller will invoice Buyer, and Buyer will pay Seller, for the _____

_____, plus the amount of any sales, use or other similar taxes now or hereinafter imposed by reason of sale or delivery of Compressed Air hereunder. At the end of the calendar month during which the Start Up Date occurs, Seller will invoice Buyer, and Buyer will pay Seller,

for the portion of the month which Compressed Air was delivered on a prorata basis, plus the amount of any sales, use or other similar taxes now or hereinafter imposed by reason of sale or delivery of Compressed Air hereunder during such month.

4.3.1 Buyer's obligation to pay'

4.3.2 Seller shall be deemed to have provided Compressed Air during periods

- (a)
- (b)
- (c)
- (d)
- (e)

4.4.1 During the term hereof, (other than the first three (3) months following the Start-Up Date), the _____ will be applicable when Seller achieves a minimum of _____ Plant availability

. Should Seller fail to provide _____ Plant availability during any month except the first three (3) months of operations, Seller will reduce

the Plant is actually on line, down to _____ availability at which point payment will be _____. Downtime, performance testing or operation at reduced capacity

The
calculation of Plant availability for each calendar month will be made by

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Seller and furnished to Buyer by the 15th day of the calendar month following the end of each calendar month together with

4.4.2 Seller shall use best efforts to minimize downtime but will have the right to shut down the Plant, or portions thereof, for such reasonable periods of time as may be necessary to make repairs and perform maintenance as is necessary and consistent with proper and safe operation.

If the Plant operations are such that Buyer's Pensacola Plant operations are adversely affected by Seller's downtime, Seller and Buyer will mutually use best efforts to identify and correct the problem as soon as possible.

4.4.3 Buyer's intent is to provide Seller with advance notice of Buyer's scheduled maintenance shutdowns to allow coordination of scheduling the Seller's required shutdowns, when possible, to the mutual advantage of both parties.

The Plant will be returned to service as soon as feasible.

4.4.4 Buyer shall have the right to shutdown the Plant for emergencies at Buyer's expense

During
the operation of the Plant, Buyer has the right to monitor the Plant and at anytime to require a shutdown if in the opinion of the Buyer, major equipment failure is imminent. All costs and downtime related to any

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shutdown under this Article 4.4.4 will be for Buyer's account, provided said shutdown was not necessary at that time, and will be for Seller's account provided said shutdown was necessary at that time.

4.4.5 In the event Buyer disagrees with Seller's determination of Plant availability, the parties promptly shall endeavor to reach agreement on such point.

4.5.1 Buyer's account shall be credited for

4.5.2 Buyer's account shall be charged as if the Plant was operating at
pursuant to Article 4.4.1 for the term of the
Agreement during which Compressed Air was not required by Buyer during

4.5.3 Seller shall reduce

Compressed Air during such extended period.

4.5.4

4.6 The terms of payment will be net cash ten (10) days following receipt of invoice. In the event Buyer is late in the making of any payment hereunder, Buyer shall pay to Seller a late payment penalty, applied to the balance due for each month of lateness or portion thereof. The balance due shall bear interest, at a rate per annum equal to
in excess of the reference ("prime") rate charged on the due date by Manufacturers Hanover Trust Company, New York, New York to its best commercial customers.

4.7 If Buyer's future requirements of delivery pressures and/or flow rates of Compressed Air are outside the design conditions as set forth in Exhibit C, then Seller will prepare, at Buyer's request and expense, capital, design, engineering, construction, operating and maintenance cost estimates for changes or modifications necessary to enable the Plant to meet the revised operating conditions.

(2) accept the current design conditions without change or (3) procure additional Compressed Air from a third party.

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4.12 In the event Seller incurs any increase in costs or expenses in the design, fabrication, construction or start-up of the Plant due to any *wkz*

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delays or hindrances caused by acts of Buyer, its agents, employees or contractors, or to changes to the Plant caused by Buyer, Buyer shall reimburse Seller for such increases in costs and expenses upon presentation of an invoice therefore, together with adequate documentation thereof; provided however, Buyer will not be liable for any such cost increases related to changes in scope of supply unless authorized in writing by Buyer's Engineering Project Manager.

ARTICLE 5

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WARRANTIES

5.1

5.2

5.3

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ARTICLE 5

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APPLICABLE LAW

6.1 This Agreement will be governed by the Uniform Commercial Code and the laws of the State of Florida.

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ARTICLE 7

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TESTING AND MEASUREMENT

7.1 Seller's intent is to assure Buyer that the Plant when fully erected and operational, will perform as set forth in Exhibit C. Such intent will be deemed met if: a) the Plant meets such performance requirements as defined in Exhibit H during shop performance tests also defined in Exhibit H, to be conducted in the presence of Buyer's representative, and after a reasonable period of notification and opportunity to have qualified representatives present, 1) on the compressor at the Dresser-Rand Company manufacturing facility at Olean, NY, 2) on the electric motor driver at the Electric Machinery Division manufacturing facility in Minneapolis, MN, and 3) on the gear at the Lufkin Industries, Inc. facility in Lufkin, TX, prior to shipment; and, b) the Plant meets a confirming initial field performance test described in Article 7.2 which substantiates the plant design bases as described in Exhibit C.2 of the motor-gear-compressor train. In the event the performance requirements are not met during such tests, all necessary changes in the Plant to enable the Plant to meet such performance will be made by Seller without any additional cost to Buyer and at Seller's expense.

7.2 The allowable tolerances during the initial field performance test will be equivalent to the shop performance tests as described in Exhibit H plus shop specific field instrument and measurement device inaccuracies. The initial field performance test will serve as a benchmark for performance deterioration, and will be conducted prior to the Start-Up Date. The initial performance test will be correlated with the shop

performance test using the above mentioned tolerances and applicable efficiencies of the respective compression equipment.

- 7.3 Seller, and with mutual agreement of Buyer, may perform subsequent field performance tests of the Plant to demonstrate performance. Before conducting such tests, Seller shall provide fourteen (14) day prior written notification to Buyer of the date and time of such tests so that Buyer, at its option, may witness said tests. Any subsequent field performance tests will be a standardized procedure utilizing the instrumentation installed for normal operation, monitoring, and control of the Plant, and the procedure will be provided by Seller to Buyer for review not later than sixty (60) days before the Start-Up Date, and will be mutually agreed to by both parties.
- 7.4 Buyer may request Seller to perform subsequent field performance tests during the term of this Agreement within the flows and pressures as set forth in Exhibit C. The out-of-pocket cost of such subsequent field performance tests, requested by Buyer, will be paid by Buyer if said test results indicate that the performance of the initial field performance test is being achieved, or paid by Seller if said results indicate said performance is not achieved. Successful completion of a subsequent field performance test will be accomplished if the results show that the performance is not more than 2% lower than the initial field performance test in addition to the instrument and measurement device tolerances. The cost for Electric Power Service for all performance testing will be to Buyer's account.

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TERM OF AGREEMENT, OPTIONS FOR PURCHASE AND TERMINATION

- 3.1 Term of Agreement. This Agreement shall become effective upon the date hereof, and unless extended pursuant to Article 12.2, shall continue in effect for a period of 120 months from the Start-Up Date, and thereafter shall continue in effect from year to year unless terminated by either party upon written notice to the other party at least six (6) months prior to the end of the said 120 month period or three (3) months prior to the end of any yearly extensions thereof, except as otherwise provided in this Article 8.
- 3.2 Purchase of Plant. In each calendar year following the Start-Up Date during the term of this Agreement, Buyer may at its option, upon at least four (4) months prior written notice to Seller, purchase the Plant. On the date of purchase, Buyer will pay Seller the purchase price set forth in Exhibit B for the calendar year in which such purchase is made. The conditions of said purchase are further supplemented by Article 2.1, Article 10.3 and Article 10.5. On or before December 31, 1988, Buyer may at its option, upon at least two (2) months prior written notice to Seller, purchase the Plant at a partial stage of completion. On the date of purchase, Buyer will pay Seller the purchase price set forth in Exhibit B. Upon payment of the purchase price, this Agreement shall terminate and, Buyer shall have no further obligation under this Agreement. Except with respect to occurrences affecting title as described in Article 10.5.

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below, Seller shall deliver such documents as are necessary to convey good and marketable title of the Plant to Buyer free and clear of any liens and encumbrances caused by Seller. ANY SUCH PURCHASE BY BUYER OF THE PLANT SHALL BE ON AN "AS IS, WHERE IS" BASIS WITHOUT ANY EXPRESSED OR IMPLIED WARRANTIES BY SELLER OTHER THAN THE WARRANTY OF TITLE, EXCEPT THAT ANY EQUIPMENT WARRANTIES STILL IN FORCE SHALL BE TRANSFERRED TO BUYER. Buyer shall pay any sales or transfer taxes imposed on either party by reason of such sale and purchase of Plant.

3.3 Termination During Initial Term. Buyer may, at its option, upon at least six (6) months prior written notice to Seller, terminate this Agreement during the initial 120 month period set forth in Article 3.1. On effective date of termination Buyer will pay to Seller the termination fee set forth in Exhibit B. The conditions of said termination are further supplemented by Article 2.1, Article 3.9, Article 3.10, Article 8.6, Article 17.1, and Article 17.2.

3.4 Termination Due to Default.

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3.5 If during the term of this Agreement, Seller takes actions which result or may result in the voluntary cessation and liquidation of business which have or would have significant adverse effect on the operation of the Plant, Seller shall give Buyer at least six (6) months prior written notice of such contemplated action after which Buyer will have the right to purchase the Plant at a negotiated price.

3.6 If, (i) pursuant to any present or future arrangements with, or any directive or requirement from or of, any third party providing Utilities, any such Utility cannot be provided, or (ii) any governmental law, order, regulation or decree shall prevent or limit Buyer in providing or arranging for any Utility or providing facilities for such purposes, or

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(iii) in the event that Buyer may reasonably determine that it may be deemed to be, or be required to be, "Licensed as a Public Utility" because of the provision of, or arranging for the provision of, any such Utilities or facilities used for such purposes then, in any such event Buyer shall not be required to provide the Utilities, so limited, restricted or regulated. In lieu thereof, the parties shall cooperate to arrange for such Utilities so affected to be furnished directly to Seller by a third party, or to Seller and Buyer severally, or to be furnished in any other reasonable and proper manner. For the purposes of this Article 3.6, "Licensed as a Public Utility" shall mean any requirement that Buyer, at the time in question, be licensed, obtain a certificate of public convenience and necessity or in any manner be subject to, regulated by or required to comply in any way with the laws, rules or regulation of any governmental authority or agency at any level having jurisdiction, as a public utility, retail public utility or any other form of utility or carrier, or as a holding company of any of the foregoing, with respect to electricity, water, use or conservation of energy, or environmental or sewage services, including, without implied limitation, the Public Utility Holding Company Act of 1935 ("PUHCA"), the Federal Power Act ("FPA"), the Public Utility Regulatory Policy Act ("PURPA"), a Florida public utility regulatory act or Florida water code).

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ARTICLE 9

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APPLICABLE LAWS

9.1 Seller agrees to comply with all applicable laws, rules, and regulations, including, but not limited to the Fair Labor Standards Act of 1938, as amended.

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PLANT SITE AND TITLE TO FACILITIES

- 10.1 Simultaneous with the execution of this Agreement, Buyer will furnish the Plant Site to Seller without charge. Buyer grants, or will obtain for Seller, the right of access to the Plant Site within five (5) months following execution of this Agreement, for the term of this Agreement or any extensions thereof, and thereafter for a period of two (2) years in accordance with Article 2.2 for the removal of the Plant. Buyer, at its expense, will provide a suitable roadway to such Plant Site.
- 10.2 Subject to the use of the Plant Site and Plant as granted to Seller herein, Buyer shall retain ownership rights to the Plant Site. Seller shall retain title to all facilities furnished by Seller including, without limitation, compressor(s), electric motor(s), heat exchangers, pipelines, and connections. In the event Buyer decides to sell a part of or all of Buyer's Pensacola plant site which includes the Plant Site, Buyer shall obtain the acceptance of the purchaser of said site of Seller's rights under this Agreement. Buyer will not cause any liens or encumbrances (other than those created by Seller) to adversely affect the Plant. Seller will not cause any liens or encumbrances to adversely affect the Buyer's Pensacola plant.
- 10.3 No title or right in the Plant modifications shall pass to Buyer except as expressly stated in Article 8.2, Article 10.5 or on Buyer's purchase thereof. The Plant, Plant modifications and equipment shall always

remain and be deemed personal and movable property even though attached to real or immovable property. All replacements, equipment, repairs or accessories made to or placed in the Plant by Seller shall become a component part of the Plant and subject to Buyer's purchase option, and title thereto shall remain with Seller unless purchased by Buyer with the Plant. Any spare parts stored by Seller at the Plant shall become a part of the Plant or become subject to Buyer purchase option when incorporated in the Plant as stated above. Any storage of Seller's spare parts on Buyer's property will be in complete compliance with manufacturer's specifications, with Seller retaining access to said spare parts at all times during the term of this Agreement.

- 10.4 Buyer will use its best efforts to prevent Buyer's employees or contractors, except as authorized by Seller pursuant to Article 2.10, Article 2.11 and Article 4.4.4 from entering the Plant Site or altering, repairing, adjusting, or otherwise tampering with the Plant.
- 10.5 If, at any time and for any reason beyond the control of Seller, for a period of six (6) months during the term of this Agreement or any extension thereof, Seller is prevented by Buyer from obtaining access to the Plant Site or using the Plant in the performance of its obligations hereunder or if, during the six (6) month period following termination hereof, Seller is prevented from removing the Plant as contemplated by Article 2.1, by reason of any person's claim to the Plant Site or for enforcement of the legal principle that fixtures affixed to realty become realty, insofar as such claim may apply to the Plant (any of the foregoing circumstances being herein referred to as a "Plant Termination

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Event"), then Buyer shall, within six (6) months after receipt of written notice from Seller that a Plant Termination Event has occurred, pay to Seller the amount that would have been payable if Buyer had purchased the Plant pursuant to Article 8.2 on the date of the beginning of the Plant Termination Event minus the replacement value of any portion of the Plant removed by Seller. Upon payment of the purchase amount by Buyer pursuant to the forgoing (a) Seller shall deliver a written quitclaim or disclaimer of any interest of Seller in the Plant (or, if applicable, such portion thereof shall not be removed) from and after the date of such payment, (b) Buyer shall accept the Plant modifications "as is" and "where is" and (c) this Agreement shall terminate. The obligation of Buyer under this Article 10.5 shall survive the termination or expiration of this Agreement. Buyer shall indemnify Seller for any and all taxes paid by Seller, except those based on income, relating to the purchase by Buyer of the Plant modification pursuant to this Article 10.5.

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ARTICLE 11

LIABILITY AND INSURANCE

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ARTICLE 12FORCE MAJEURE

12.1.1 Buyer's Force Majeure. Except for any obligations to make payments as set forth in this Agreement, Buyer shall not be liable for default or delay in the performance of any of its obligations hereunder, due to an act of God, accident, fire, flood, storm, riot, war, sabotage, explosion, strike, labor disturbance, national defense requirement, governmental law, ordinance, rule or regulation whether valid or invalid, any acts of Seller, its agents, employees or contractors, inability to obtain electricity or other type of energy, raw material, labor, equipment or transportation, or any similar or different contingency beyond its reasonable control whether or not the contingency is of the same class or type as those enumerated above, it being expressly agreed that such enumeration shall be nonexclusive. Buyer, if affected by a Force Majeure shall give prompt notice to the Seller, confirmed in writing within three (3) days, as to the details of the Force Majeure event and an estimate of its probable duration and will make best efforts to terminate such Force Majeure circumstance provided however that this shall not compel Buyer to settle a labor dispute.

12.1.2 Seller's Force Majeure. Except for any obligations to make payments as set forth in this Agreement, Seller shall not be liable for default or delay in the performance of any of its obligations hereunder, due to an act of God, accident, fire, flood, storm, riot, war, sabotage, explosion,

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strike, labor disturbance, national defense requirement, governmental law, ordinance, rule or regulation whether valid or invalid, any acts of Buyer, its agents, employees or contractors, inability to obtain electricity or other type of energy, raw material, labor, equipment or transportation, or any similar or different contingency beyond its reasonable control whether or not the contingency is of the same class or type as those enumerated above, it being expressly agreed that such enumeration shall be nonexclusive. Seller, if affected by a Force Majeure shall give prompt notice to Buyer, confirmed in writing within three (3) days, as to the details of the Force Majeure event and an estimate of its probable duration and will make best efforts to terminate such Force Majeure circumstance; provided however that in the event of a labor dispute involving Seller's employees, Seller shall perform its best efforts to operate the plant with Seller's supervisory or other personnel, and further that Seller shall not be compelled to settle a labor dispute.

12.2 In the event of a delay, or default in performance by Buyer or Seller due to a Force Majeure events described in Article 12.1.1 and 12.1.2, the term of this Agreement shall be automatically extended for a period equal to the period of such delay or for a total period of six (6) months in the aggregate whichever is shorter.

12.3 In the event that a contingency described in Article 12.1.2 occurs and Seller determines, in good faith and upon prior consultation with Buyer, that the Plant cannot be restored to total operating capability within six (6) months, Seller shall notify the Buyer in writing and Seller shall

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have the option of (1) tendering the reduced operating capability of the Plant to provide Compressed Air for the remaining term of this Agreement or (2) terminating this Agreement without further obligation to the Buyer. Prior to termination by Seller, Seller shall offer the Plant to Buyer at a purchase price to be negotiated in good faith, or shall offer to Buyer the option to extend the term of this Agreement for a mutually agreed upon period of time and at a mutually agreed upon Compressed Air Charge.

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ARTICLE 13

CONFIDENTIAL

ASSIGNMENT

13.1 This Agreement shall inure to the benefit of and bind the respective successors and assigns of the parties hereto and except as provided below, neither party shall assign its obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld. Subject to Buyer's rights and Seller's obligations hereunder, Seller may assign its rights under this Agreement, including its rights to receive payments hereunder, which assignment shall be promptly acknowledged in writing by Buyer after notice of assignment is received from Seller. Upon such assignment, Seller shall remain primarily responsible for its performance of its obligations under this Agreement. Upon written notice to Seller, Buyer may assign this Agreement in whole or in part without the written consent of Seller; however, Buyer shall remain primarily liable for the performance thereof.

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PRECEDENCE, ENTIRE AGREEMENT, & AMENDMENT

- 14.1 Sections contained within Exhibit H entitled "CEA 4113 Specification Package-Pensacola Purchased Air" have been provided to Seller. Buyer does not require that Seller comply with any of the contractual obligations contained in such documents, however, Seller will perform its best efforts to meet the minimum requirements of the technical definition and cost definition contained in such documents in its design and construction of the Plant. However, Seller and Seller's contractors will use their best efforts to comply with Exhibit E during construction of the Plant prior to the Start-Up Date and during future site construction. Buyer has the right to review and comment on drawings, and recommend design changes on the Plant. Such review and comment is not binding on Seller, and Buyer shall not be liable for any such recommendations.
- 14.2 The Articles of this Agreement will have complete precedence over the attached sections of said documents provided for reference. The entire Agreement of the parties is contained herein and in Exhibits A, B, C, D, E, F, G, and H, attached hereto and made a part hereof. There are no other promises, representations or warranties affecting this Agreement, and any other or different terms and conditions appearing in any purchase orders issued or accepted hereunder shall be deemed null and void.

14.3 This Agreement shall not be modified or amended unless such modifications or amendments are in writing and signed by authorized representatives of both parties.

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NOTICE

15.1 It shall be sufficient giving of any notice or other communication hereunder if the party giving the same shall deposit a copy thereof in the Post Office in a registered or certified envelope, first class postage prepaid, addressed to the other party at the following address:

In the case of Seller:

Niject Services Company
One Williams Center
Suite 2320
Tulsa, Oklahoma 74172

Attention: President

In the case of Buyer:

Monsanto Company
300 North Lindbergh Boulevard
St. Louis, Missouri 63167

Attention: Director of Purchasing
Monsanto Chemical Company
A Unit of Monsanto Company

or such other address as either party may designate in writing.

The date of giving such notice or other communication will be the date such envelope was deposited. The Post Office receipt showing the date of such deposit shall be a prima facie evidence of such fact.

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CERTIFICATE OF INCUMBENCY AND AUTHORIZATION

- 15.1 Upon execution of this Agreement, Buyer will provide to Seller a certificate of incumbency and due authorization of Buyer's representative executing this Agreement which certificate shall be signed by the Secretary or the Assistant Secretary of Buyer in the form and substance acceptable to Seller.
- 15.2 Upon execution of this Agreement, Seller will provide to Buyer a certificate of incumbency and due authorization of Seller's representative executing this Agreement which certificate shall be signed by an officer or director of Seller in the form and substance acceptable to Buyer.

with

ARTICLE 17CONFIDENTIALITY17.1 BUYER CONFIDENTIAL INFORMATION

Seller shall treat and maintain, and cause its employees and agents to treat and maintain, as Buyer's confidential property, and not use or disclose to others during the term of this Agreement and for five (5) years thereafter, except as is necessary to perform this Agreement (and then only on a confidential basis satisfactory to Buyer) the documents and information which are identified and marked as "Confidential to Buyer". The provisions of this Section shall not apply to any information referred to in this Section which Seller establishes (i) has been published and has become part of the public domain other than by acts or omissions of Seller, its employees or agents, (ii) has been furnished or made known to Seller by third parties (other than those acting directly or indirectly for or on behalf of Buyer) as a matter of legal right and without restriction on disclosure or use, (iii) was lawfully in Seller's possession prior to disclosure thereof by Buyer to Seller and was not acquired by Seller, its employees or agents directly or indirectly from Buyer or (iv) was lawfully developed independently by Seller. Specific information shall not be deemed to fall within any of these exceptions merely because it is within the scope of more general information which falls into one or more of these exceptions. *with*

Buyer shall treat and maintain, and cause its employees and agents to treat and maintain, as Seller's confidential property, and not use or disclose to others during the term of this Agreement and for five (5) years thereafter, except as is necessary to perform the work hereunder (and then only on a confidential basis satisfactory to Seller), the documents and information which are identified and marked as "Confidential to Seller". The provisions of this Section shall not apply to any information referred to in this Section which Buyer establishes (i) has been published and has become part of the public domain other than by acts or omissions of Buyer, its employees or agents, (ii) has been furnished or made known to Buyer by third parties (other than those acting directly or indirectly for or on behalf of Seller) as a matter of legal right and without restriction on disclosure or use, (iii) was lawfully in Buyer's possession prior to disclosure thereof by Seller to Buyer and was not acquired by Buyer, its employees or agents directly or indirectly from Seller or (iv) was lawfully developed independently by Buyer. Specific information shall not be deemed to fall within any of these exceptions merely because it is within the scope of more general information which falls into one or more of these exceptions.

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ARTICLE 18

CONFIDENTIAL

NON WAIVER

18.1 Neither a failure or omission of a party hereto to exercise any right of such party or enforce any obligation of the other party nor any delay of a party in any such exercise or enforcement shall impair or constitute a waiver or abandonment of any other right or nonperformance of such obligation, or preclude any subsequent exercise of such other right or any other right of such party, or preclude any subsequent enforcement of such obligation or any other obligation to the other party.

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ARTICLE 19

CONFIDENTIAL

SURVIVAL

The provisions of Articles 10.5, 11.6 and 17 shall survive expiration or termination of this Agreement pursuant to their respective terms, including any amendment or modification thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

NIJECT SERVICES COMPANY

By: *Lizbeth Troll*

Title: *President*

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MONSANTO COMPANY

By: *[Signature]*

Title: *President*

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COMPONENTS OF CHARGES

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EXHIBIT B

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TERMINATION AND PURCHASE SCHEDULES

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PLANT DESIGN BASIS

C.1 The Plant design is predicated on the Buyer's specification of the Inlet Air Stack and it shall prove adequate for the supply of air to the Plant that will contain only normal atmospheric contaminants, free of corrosive components and hydrocarbon or particulate sources in excessive amounts.

C.2 The "Plant Design Basis" and conditions are the following:

Flow, SCFM (14.7 psia & 60°F Dry)	155,660
Inlet Pressure (PSIA)	14.4
Temperature (Degrees F) - Maximum	95
Relative Humidity (%)	30
Cp/Cv	1.40
Compressibility	1.00
Discharge Pressure (PSIA)	49.2

C.3 Performance data on the attached curves PMC 1715, 1716, & 1717 as well as the attached tabulated data PMC 1714 is provided to define the acceptable operating conditions of Compressed Air Supply. Slight modifications are expected pending review of actual shop test data. Discharge pressure conditions are provided at the compressor discharge flange.

C.4 Plant Site design conditions are the following:

a.	Dry Bulb Temperature, °F	
	Maximum	100
	Minimum	+10
b.	Maximum Wind Velocity, mph	114
c.	Elevation above Sea Level, feet	40
d.	Frost line, inches	0
e.	Seismic zone	0

C.5 Seller will not modify the facility design to affect the chemical composition of the Compressed Air without the prior written approval of Buyer.

C.6 The average composition of dry air is as follows:

	Volume <u>Percent</u>
Nitrogen	78.084
Oxygen	20.948
Argon	0.934
Carbon Dioxide	0.0314
Rare and Inert Gases	0.0026

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EXPECTED PERFORMANCE
FOR
PROJECT SERVICES COMPANY
AIR COMPRESSION PROJECT
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EXPECTED PERFORMANCE
FOR
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EXHIBIT D

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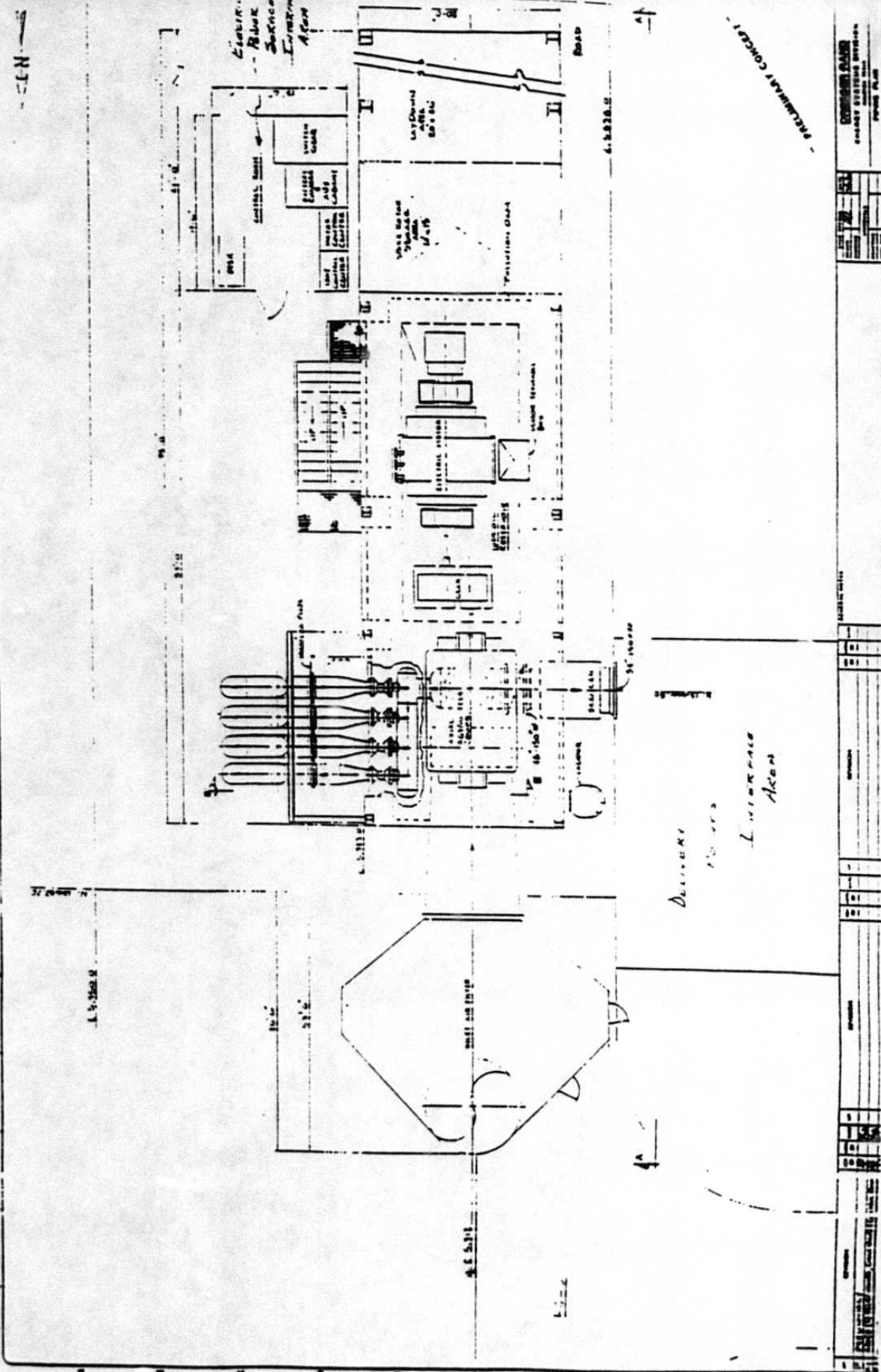
PLOT PLAN

(SEE ATTACHED PAGES)

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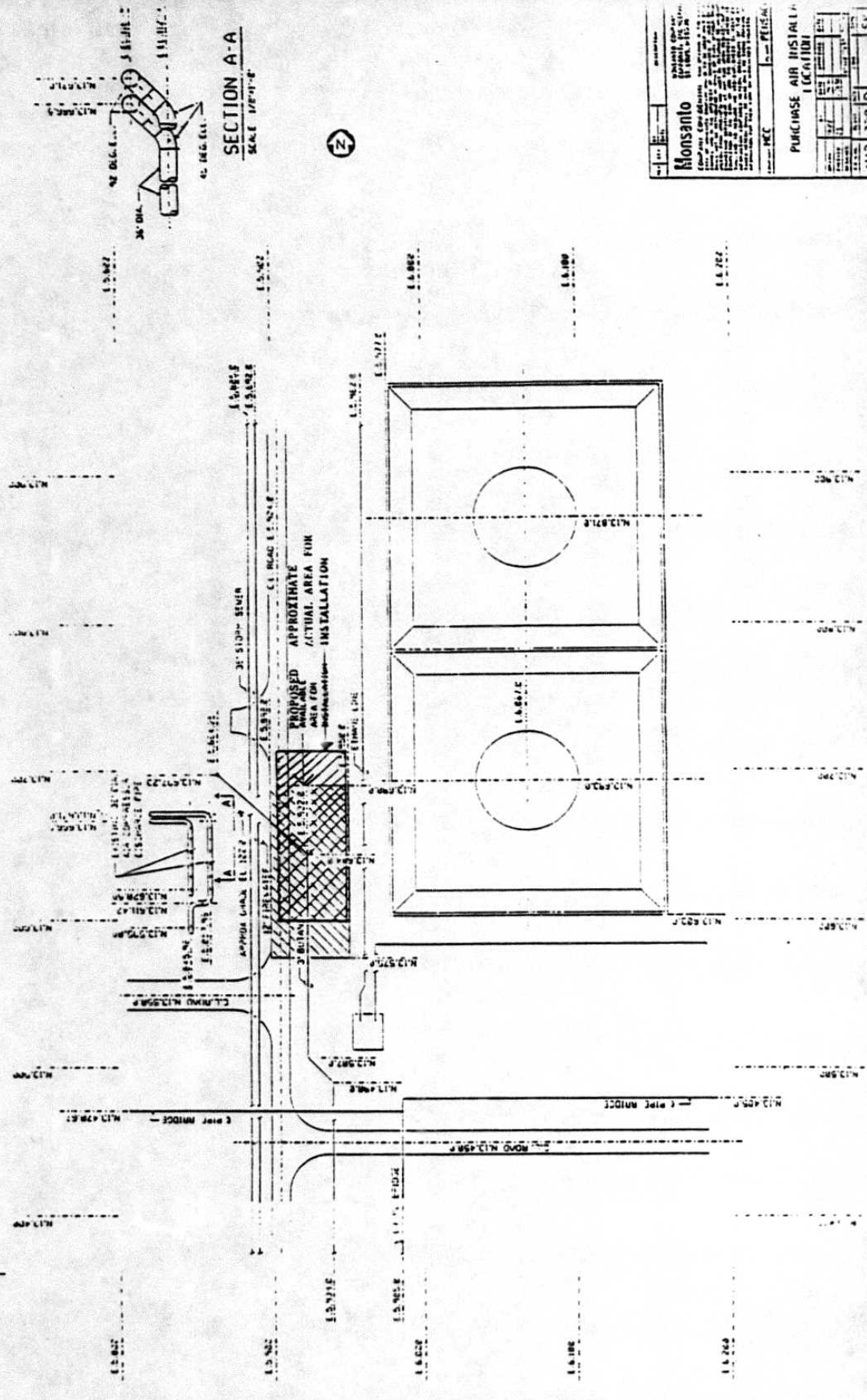
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GENERAL NOTES	
1.	CONCRETE FLOOR
2.	CONCRETE WALLS
3.	CONCRETE ROOF
4.	CONCRETE FOUNDATION
5.	CONCRETE CURB
6.	CONCRETE DRIVE
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Monsanto
Purchaser's Name: **4113 724(D)**
Purchase Air Installation Location: **5F**

Contract No.	100-100-100-100
Contract Date	10/10/10
Contract Value	\$100,000.00
Contract Status	Active
Contract Type	Construction
Contract Location	4113 724(D)
Contract Description	5F

INSURANCE PROVISIONS OF SELLER'S CONTRACTOR

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EXHIBIT F

ELECTRICAL POWER SERVICE

F.1 The Electrical Power Service to the Plant shall be provided at 12.47 Kilovolts, 3 phase, 60 Hz; and at 480 volts, 3 phase, 60 Hz. The minimum available short circuit value at the Delivery Point shall allow Seller to start all loads across the line.

Further definition of Electric Power Service is provided in Article 2.6.

EXHIBIT G

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(DELETED)

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PLANT DESCRIPTION

Buyer and Seller agree that Seller's Plant includes a Electric Machinery synchronous electric motor with a nameplate rating of 19000 HP, a Lufkin speed increasing gear, a Dresser-Rand AG 9/10 axial air compressor with a design rating as described in Exhibit C.2, suitable installation and auxiliary systems.

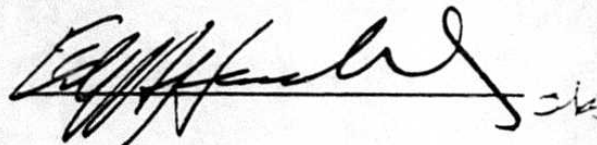
Buyer's Specification #CEA 4113 named "Specification Package-Pensacola Purchased Air", and subsequent written updates communicated between the Buyer and the Seller, that modify said specification, will be the basis for the technical definition and the cost definition.

WJ

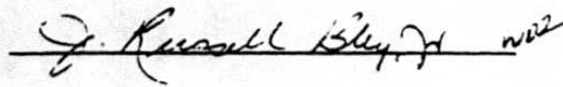
CERTIFICATE OF AUTHORIZATION
AND INCUMBENCY

J. Russell Bley, Jr.
I, ~~Russell J. Bley, Jr.~~, DO HEREBY CERTIFY (a) that I am the Assistant Secretary of Monsanto Company, a corporation duly organized and validly existing under the laws of the State of Delaware, and that as such officer I have access to the original books and records of said Corporation and am authorized to make and deliver this Certificate; (b) that the person named below held the position in said Corporation set forth opposite his name and was authorized to execute and deliver all necessary documents, agreements and instruments in connection with the Supply Agreement to Monsanto Company for Compressed Air for the Monsanto Pensacola Plant dated July 8, 1988 between Niject Services Company and said Corporation; and (c) that the following is the official signature of said person, to wit:

Earle H. Harbison, Jr. President

 ck

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Corporation this 11th day of July, 1988.

 n12
Assistant Secretary

CONFIDENTIAL

EXHIBIT G

CERTIFICATE OF AUTHORIZATION
& INCUMBENCY

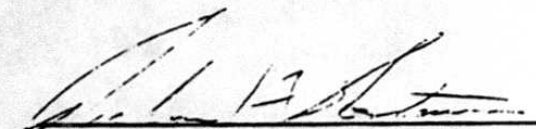
I, Richard F. Woestman, DO HEREBY CERTIFY (a) that I am the Director of Niject Services Company, a general partnership duly organized and validly existing under the laws of the State of New York, and that as such officer I have access to the original books and records of said Partnership and am authorized to make and deliver this Certificate; (b) that the person named below held the position in said Partnership set forth opposite his name and was authorized to execute and deliver all necessary documents, agreements and instruments in connection with the Supply Agreement to Monsanto Company for Compressed Air for the Monsanto Pensacola Plant dated July 8, 1988 between Niject Services Company and said Corporation; and (c) that the following is the official signature of said person, to wit:

David E. Kroll, President



JEP

IN WITNESS WHEREOF, I have executed this Certificate this 13th day of
July, 1988.



Richard F. Woestman, Director

1920198-EQ

NDH copy

10-YEAR
NITROGEN CONTRACT

PENSACOLA PLANT
NITROGEN GENERATOR

LINDE DIVISION OF
UNION CARBIDE

APRIL 18, 1989

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THIS AGREEMENT made and entered into as of the date of July 19, 1989 by and between UNION CARBIDE INDUSTRIAL GASES, INC. acting by its Linde Division, a corporation organized and existing under the laws of the State of New York (hereinafter referred to as "Seller") and MONSANTO COMPANY, a corporation organized and existing under the laws of the State of Delaware (hereinafter referred to as "Buyer"):

W I T N E S S E T H:

WHEREAS, Buyer requires substantial quantities of nitrogen for use at its plant at Pensacola, Florida and has requested Seller to supply such quantities of nitrogen from a nitrogen plant owned and operated by Seller; and

WHEREAS, Seller is willing to make substantial investment, own and operate a nitrogen plant on a site to be furnished by Buyer, from which Seller will supply nitrogen to Buyer;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises herein, Buyer and Seller agree as follows:

ARTICLE 1 - DEFINITIONS

As used in this Agreement:

1.1 "Buyer's Plant" means Buyer's plant at Pensacola, Florida, and any additions thereto and any portions of Buyer's Plant sold to third parties subsequent to September 25, 1979 which continue to utilize the existing Nitrogen Distribution System as defined in Article 1.4.

1.2 "Nitrogen Plant" means the facilities to be owned and operated by Seller which contain facilities and equipment for the production, compression, storage and vaporization of nitrogen.

1.3 "Nitrogen Plant Site" means the plot of land furnished by Buyer for the Nitrogen Plant. The Nitrogen Plant Site location and boundaries are described in Exhibit A, item 1.

1.4 "Nitrogen Distributing System" means the system of trunk and service pipelines owned and maintained by Buyer and used to transport nitrogen from the Nitrogen Plant to the various use points at Buyer's Plant.

1.5 "Cubic Foot" used as a measure of nitrogen means that quantity of nitrogen which in gaseous form would occupy a volume of one cubic foot at 70 degrees Fahrenheit temperature and 14.696 pounds per square inch absolute pressure.

1.6 "Plant Produced Nitrogen" means all nitrogen produced by the nitrogen production facilities, whether in gaseous or liquid form, of the Nitrogen Plant up to the maximum instantaneous production rate specified in Exhibit A, item 2.

1.7 "Supplemental Nitrogen" means all nitrogen other than Plant Produced Nitrogen delivered to Buyer's Plant hereunder.

ARTICLE 2 - QUANTITY

2.1 Seller will sell and deliver into the Nitrogen Distributing System or the cold box flange of the Nitrogen Plant and Buyer will purchase and receive from Seller, nitrogen for Buyer's Plant up to at the maximum instantaneous production rates set forth in Exhibit A, item 3, during the applicable manner of operation as therein specified.

2.2 Buyer and Seller agree to meet from time to time during the term of this Agreement to review Buyer's requirements of nitrogen under the maximum rate referred to in Article 2.1 which are the subject of this Agreement and agree to negotiate in good faith for additional production facilities, as such are required.

2.3 Buyer may install a Monsanto Permea™ Membrane unit to supply its nitrogen requirements in excess of 81.84 million cubic feet per month at the maximum instantaneous demand rates set forth in Exhibit A, item 3, during the applicable manner of operation as therein specified. Buyer and Seller agree that for any period of supply under this Article 2.3, Seller will be relieved of its obligations under Article 4 for the requirements in excess of

at the maximum instantaneous demand rates set forth in Exhibit A, item 3. Buyer is not restricted in purchasing or generating other nitrogen enriched streams in excess of 81.84 million cubic feet per month at the maximum instantaneous demand rates set forth in Exhibit A, item 3 which are used as lower purity (less than 98%) process gas in specific unit processes. Any such gas(es) will not be made a part of the distributed gas in the Nitrogen Distributing System carrying Seller's plant produced nitrogen.

ARTICLE 3 - PRICE

3.1 Upon first delivery of nitrogen to the Nitrogen Distributing system, and thereafter, as promptly as possible after the end of each calendar month, Seller will invoice Buyer and Buyer will pay Seller for Plant Produced Nitrogen in accord with the price set forth in Exhibit A, item 4.1, as adjusted under Article 9, and for Supplemental Nitrogen, including any and all liquid nitrogen remaining in the tankage as described in Article 5.2 at the time of first delivery, in accord with the price set forth in Exhibit A, item 4.2, as adjusted under Article 10, plus the amount of any excise taxes as set forth in Article 11.

3.2 Even if Buyer has no requirements for Plant Produced Nitrogen during any month, Buyer will pay the amount specified in Exhibit A, item 4.1, for Plant Produced Nitrogen, as adjusted under Article 9.

3.3 Terms of payment will be net cash thirty (30) days following receipt of invoice.

3.4 If, at Buyer's request, Seller delivers at any one time less than five hundred thousand (500,000) cubic feet of Supplemental Nitrogen into the storage tankage, Buyer will also pay Seller a three hundred (300) dollar surcharge, as when ordering such delivery.

ARTICLE 4 - SPECIFICATIONS

4.1

4.2 Seller warrants that nitrogen delivered to Buyer shall conform to the specification set forth in Article 4.1 and that at the time of delivery, Seller shall have good title and right to transfer the same and that same shall be delivered free and clear of all liens and encumbrances.

ARTICLE 5 - DELIVERY PRESSURE AND STORAGE CAPACITY

5.1 Nitrogen will be delivered into the Nitrogen Distributing System at a pressure equal to or greater than the minimum pressure specified in Exhibit A, item 5. The maximum delivery pressure will not exceed 110 psig.

5.2 The Nitrogen Plant will include two vessels for the storage of liquid nitrogen. The capacity of such vessels will be as specified in Exhibit A, item 6.

ARTICLE 6 - INSTALLATION AND FIRST DELIVERY

6.1 Seller and Buyer will use reasonable efforts to make and receive, respectively, the first delivery of nitrogen hereunder within the period of time specified in Exhibit A, item 7.

ARTICLE 7 - SELLER'S SHUTDOWN

7.1 Seller will have the right from time to time to shut down the production facilities of the Nitrogen Plant for such period of time as may be necessary for Seller to make ordinary repairs and for maintenance and/or thawing necessary and consistent with proper operation. During any such period, Seller shall deliver into the Nitrogen Plant storage vessels specified in Article 5.2, Buyer's requirements of nitrogen for Buyer's Plant up to the maximum instantaneous production rate specified in Article 2.1, and nitrogen delivered into the storage vessels shall be Supplemental Nitrogen in accord with Article 1.7 and price in accord with Article 3. Supplemental Nitrogen delivered into the storage vessels shall be measured by the method Seller regularly uses for the type of delivery made.

7.2

7.3 To the extent practicable, Seller will use reasonable efforts to notify Buyer thirty days in advance of when scheduled shutdown periods will occur.

ARTICLE 8 - METERING EQUIPMENT

8.1 Seller, at its expense, will install and maintain or will cause to be installed and maintained, metering equipment on the Nitrogen Plant Site to measure the different plant produced nitrogen rates as described in Exhibit A, item 4.1. The metering equipment shall be located downstream of Seller's vent valve and upstream of back-up system. Such equipment will remain the property of Seller at all times, and Seller will remove it within four (4) months after the termination of this Agreement.

8.2 Seller, at its expense and upon reasonable notice to Buyer, will test and calibrate the metering equipment at least once annually, and Buyer may have its representatives present during such tests. Reading will be corrected to standard cubic feet measured at 70 degrees Fahrenheit and 14.696 pounds per square inch absolute pressure. At any time requested by Buyer, Seller will test the metering equipment in the presence of Buyer's representatives, and if the metering equipment is found on such test to be accurate, Buyer will pay Seller the cost and expense of such test, but if found on such test to be inaccurate, then the cost and expense of such test and of correcting the inaccuracy in the

metering equipment will be borne by Seller. If on any test the metering equipment is found to be inaccurate, a correcting invoice will be rendered to cover the actual amount of nitrogen delivered to Buyer through the metering equipment for the thirty (30) day period prior to the date on which such test was made, or the period from the date such metering equipment was last tested and considered accurate, whichever period is shorter. If on any test of the metering equipment its inaccuracy is not over two percent (2%), either fast or slow, the metering equipment will be considered accurate. In the event that Buyer's representative is not present during such test, Seller will certify to Buyer the results of such test.

ARTICLE 9

9.1

9.2

ARTICLE 10

10.1

ARTICLE 11 - TAXES

11.1 If at any time during the term of this Agreement any tax, other than a net income or excess profits tax or a general franchise tax imposed on corporations on account of their right to do business within the state as a foreign corporation and other than a tax covered by Article 3.1, is newly imposed on Seller by any governmental authority which directly increases Seller's costs incurred in the production, sale or delivery of nitrogen to Buyer hereunder, or if, due to a rate change or other action of the governmental authority, there is an increase in any such tax presently existing, then Buyer will reimburse Seller therefore to the extent that Seller can reasonably demonstrate that its cost for production, sale or delivery hereunder are directly increased thereby. Likewise, if any such tax shall be eliminated or if there shall be a decrease in the rate of such tax, Seller will credit Buyer in the amount of the reduction in tax which is thus realized by Seller.

11.2 Buyer will pay any property taxes levied on the Nitrogen Plant Site. Buyer will reimburse Seller for any property taxes with respect to the Nitrogen Plant.

ARTICLE 12 - CONTINGENCIES

12.1 Neither party hereto will be liable to the other for default or delay in the performance of any of its obligations hereunder due to act of God, accident, fire, flood, storm, riot, war, sabotage, explosion, strike, labor disturbance, national defense requirement, governmental action, whether valid or invalid, extraordinary failure of equipment or apparatus, inability to obtain

electricity or other type of energy, raw material, labor, equipment or transportation, or any similar or different contingency beyond its reasonable control which would make performance commercially impracticable, whether or not the contingency is of the same class as those enumerated above, it being expressly agreed that such enumeration shall be nonexclusive, provided however, neither business downturn nor economic conditions will qualify as a contingency event within the meaning of this Article 12.

12.2 If, for any period, a contingency covered by Article 12.1 reduces or fully interrupts the delivery of nitrogen from the production facilities of the Nitrogen Plant, Buyer and Seller will have no commitment under Article 2.1 and the prices set forth in Article 3.1 shall be prorated to the extent of the reduction or interruption. In that event, Seller will act reasonably under the circumstances of the contingency, in its effort to restore delivery of nitrogen from the production facilities of the Nitrogen Plant. Until such delivery has been fully restored, Seller will deliver Supplemental Nitrogen, which Seller has reasonably available for Buyer from storage and other locations, to Buyer's Plant in accordance with Buyer's demand, up to the maximum referred to in Article 2.1. Buyer will pay for any nitrogen delivered pursuant this Article 12.2 at the price for Supplemental Nitrogen plus any additional direct costs related to special purchase, freight or special handling in making such deliveries. Seller will give Buyer reasonable advance notice of any such additional direct costs, and Buyer will advise Seller to discontinue said deliveries of Supplemental Nitrogen or request that they be continued.

12.3 During any period that no Plant Produced Nitrogen is delivered or taken due to the failure of Seller to deliver or Buyer to take nitrogen because of a contingency covered by Article 12.1, Buyer will be relieved of its obligation under Article 3.2 to pay for the amount specified in Exhibit A, item

4.1, for Plant Produced Nitrogen, but the terms of Agreement will be extended for a period equal to the period that no Plant Produced Nitrogen is taken or delivered due to the contingency.

ARTICLE 13 - LIABILITY

13.1 Determination of the suitability of the nitrogen furnished hereunder for the use contemplated by Buyer is the sole responsibility of Buyer, and Seller shall have no responsibility in connection therewith.

13.2 Buyer acknowledges that there are hazards associated with the use of nitrogen, that it understands such hazards, and that it is the responsibility of Buyer to warn and protect its employees and others exposed to such hazards through Buyer's use of nitrogen. Seller shall provide Buyer with copies of Material Safety Data Sheets relating to nitrogen for Buyer to take into account when providing warnings relating to its operations. Buyer assumes all risk and liability for loss, damages or injury to persons or to property of Buyer or others arising solely out of the presence or use of nitrogen and not caused by the negligence of Seller, its employees, or agents.

13.3

13.4

13.5

13.6 Claim for nondelivery of nitrogen or delivery of non specification nitrogen shall be void unless notification is given to Seller's operating personnel promptly after discovery; provided, however, that such notification

Buyer will
confirm such notification in writing, as provided in Article 24.1,

Seller reserves the right to confirm Buyer's measurements of nonspecification nitrogen.

ARTICLE 14 - NITROGEN PLANT SITE

14.1 Buyer will furnish a mutually acceptable Nitrogen Plant Site to Seller without any charge.

14.2 Buyer will obtain all necessary Federal, State or Local permits and authorizations for construction and operation of the Nitrogen Plant.

14.3 Seller, at its expense, will install foundations for new equipment. Seller, at its expense, will operate and maintain the Nitrogen Plant on the Nitrogen Plant Site. The Nitrogen Plant will remain the property of Seller at all times, and Seller will remove it within six (6) months after the termination of this Agreement.

14.4 Buyer, at its expense, will operate and maintain the Nitrogen Distributing System. The Nitrogen Distributing System will remain the property of Buyer at all times.

14.5 Buyer, at its expense, will: make suitable provisions for drainage of surface and rain water; and certify that the Nitrogen Plant Site will remain free from underground and overhead obstructions and will remain composed of virgin soil or compacted fill, having a load bearing capacity as specified in Exhibit A, item 1 and that the soil will remain free of any toxic or hazardous materials. Buyer at its expense, will perform any necessary soil tests, install and maintain fencing, hub drains and grounding grid per Seller's drawings and design specifications.

14.6 Buyer grants to Seller the right of access, as referenced in the Lease Agreement attached herewith as Exhibit B, to the Nitrogen Plant Site for the term of this Agreement, and, thereafter, for the removal of the Nitrogen Plant. Buyer, at its expense will provide a roadway suitable for tractor trailer 60 feet long and weighing 80,000 pounds to such site acceptable to Seller.

14.7 Buyer will prevent persons other than Seller's representatives or Buyer's employees authorized by Seller from entering the Nitrogen Plant Site or altering, repairing or adjusting or otherwise tampering with the Nitrogen Plant. Buyer will prohibit storage of flammable or corrosive materials within 200 feet of the Nitrogen Plant Site, except for such storage in effect on the date that Seller approves the location of the Nitrogen Plant Site or other storage later consented to in writing by Seller, such consent not to be unreasonably withheld based on then current National Fire Protection Association standards. Buyer will prohibit smoking or use of open flames by its employees within the area of the Nitrogen Plant Site.

14.8 Buyer will hold Seller harmless from and against liens and claims against the Nitrogen Plant due to its location on Buyer's premises.

ARTICLE 15 - ENVIRONMENTAL CONDITIONS

15.1 If for any reason within the control of Buyer, the inlet air or other environmental factors create conditions which, in the demonstrated good faith opinion of Seller, affect safe or reliable operation of the Nitrogen Plant, or impose or result in additional maintenance, repair, operational or replacement requirements for the Nitrogen Plant, then Buyer, upon receipt of written notice from Seller of the existence of such contaminants and after meeting with Seller to discuss possible remedies to such condition, shall proceed in good faith either to 1) correct such condition by removal or modification of contaminant source, 2) reimburse Seller for the costs of additions or modifications to the Nitrogen Plant or its components reasonably necessary to alleviate such conditions for safe or reliable operation, 3) reimburse Seller for increased Nitrogen Plant operational, maintenance, repair or replacement costs attributable to such contaminants, or 4) reimburse Seller for costs of

relocating the Nitrogen Plant to another site, mutually agreed to by Seller and Buyer, at Buyer's plant.

15.2 If subsequent to the execution of this Agreement, any new local, state or federal law, rule or regulation requires modification to the Nitrogen Plant or Nitrogen Plant operations, or any additional permits, licenses or rights are required, such cost shall be borne by Buyer.

ARTICLE 16 - COMMUNICATION SYSTEM

16.1 Buyer will install and maintain, or cause to be maintained a signal system from the Nitrogen Plant to a location designated by Buyer at Buyer's Plant. The signal system shall be monitored by Buyer twenty-four (24) hours a day. Buyer will immediately notify Seller by telephone at a number designated by Seller should any signal be received.

ARTICLE 17 - UTILITIES

17.1 Buyer, at its expense, will provide permanent facilities to deliver electric power to the point on the Nitrogen Plant Site which Seller designates. In accord with the specifications set forth in Exhibit A, items 8.1, 8.2, Buyer, at no cost to Seller, will provide 3 phase, 60 hertz, electric power required by Seller for operation of the Nitrogen Plant and will install a circuit breaker and other necessary equipment at Buyer's source of power to protect against short-circuits and overloads in Buyer's feeder and the motor control center of the Nitrogen Plant.

17.2 In accordance with the specifications set forth in Exhibit A, item 8.3, Buyer, at no cost to Seller, will provide saturated steam required by Seller for operation of the Nitrogen Plant and will provide facilities to deliver such steam to the point on the Nitrogen Plant designated by Seller.

17.3 In accordance with the specifications set forth in Exhibit A, item 8.4, Buyer, at no cost to Seller, will provide storm and sewer connections at the points designated by Seller to remove and treat all discharges from the Nitrogen Plant in accordance with all applicable local, state and Federal laws, rules, and regulations for the term of this Agreement.

17.4 At no cost to Seller, Buyer will provide three (3) telephone lines with free access, to the point within the Nitrogen Plant Site designated by Seller. Seller will pay for monthly use charges associated with the telephone service.

17.5 Buyer, at no cost to Seller, will provide a 3/4 inch hose bib and potable water supply to the point within the Nitrogen Plant Site designated by Seller. Seller shall not be charged for use of the potable water.

17.6 Buyer, at no cost to Seller, will provide water of suitable quality for cooling water in accordance with Exhibit A, item 8.5 for operation of the Nitrogen Plant.

17.7 (a) Buyer warrants that as of the date of this Agreement, there has not been any determination that Buyer is a public utility or a public utility holding company subject to regulation as such under the laws of the State of Florida or the United States, and Buyer has not received any advice from counsel or from any governmental agency that would cause it to believe that any such determination is imminent. To the best of Buyer's knowledge and belief, it is not in the business of supplying or delivering electric power that would lead to such a determination and has no intention of entering into that business.

(b) If, (i) pursuant to any present or future arrangements with, or any directive or requirement from or of, any third party providing the utilities described in this Article 17 ("Utilities"), any such Utility cannot be provided, or (ii) any governmental law, order, regulation or decree shall prevent or limit

Buyer in providing or arranging for any Utility or providing facilities for such purposes, or (iii) in the event that Buyer may reasonably determine that it may be deemed to be, or be required to be, "Licensed as a Public Utility" because of the provision of, or arranging for the provision of, any such Utilities used for such purposes then, in any such event Buyer shall not be required to provide the Utilities, so limited, restricted or regulated. In lieu thereof, the parties shall cooperate to arrange for such Utilities so affected to be furnished directly to Seller by a third party, or to be furnished in any other reasonable and proper manner. Buyer shall reimburse Seller for all additional costs incurred by Seller in the purchase of such Utilities. For the purposes of this Article 17.7, "License as a Public Utility" shall mean any requirement that Buyer, at the time in question, be licensed, obtain a certificate of public convenience and necessity or in any manner be subject to, regulated by or required to comply in any way with the laws, rules or regulation of any governmental authority or agency at any level having jurisdiction, as a public utility, retail public utility or any other form of utility or carrier, or as a holding company of any of the foregoing, with respect to electricity, water use or conversation of energy, or environmental or sewage services, including, without implied limitation, the Public Utility Holding Company Act of 1935 ("PUHCA"), the Federal Power Act ("FPA"), the Public Utility Regulatory Policy Act ("PURPA"), a Florida public utility regulatory act or Florida water code.

ARTICLE 18 - CONFIDENTIALITY

18.1 Seller and Buyer agree to treat as confidential and not to use or disclose to others at any time during the term of this Agreement, except as is necessary to perform under this Agreement, any information regarding their respective plans, programs, plants, processes, equipment, operations or

customers which has or may come within the knowledge of Seller or Buyer or their employees in the performance of this Agreement without in each instance securing the prior written consent of the other party. Seller and Buyer further agree to make all reasonable efforts to restrict the knowledge of all such information described above to their employees who have need for it in the performance of this Agreement. Seller and Buyer also further agree to make all reasonable efforts to cause its employees not to so use or disclose, except as permitted in this Article 18.1, any of such information; including, if so requested by the other party, securing the execution of employee agreements containing provisions co-extensive with this Article 18.1 by all salaried employees assigned to or engaged in work relative to this Agreement. Nothing in this Article 18.1 shall prevent Seller or Buyer from disclosing to others or using in any manner information which has been furnished or made known to it by third parties as a matter of right and without restriction on disclosure, or information which Seller or Buyer can show as in their possession prior to the date of this Agreement, or was developed by or for it independent of the other party after said date, and which was not acquired directly or indirectly from the other party or which is or shall become part of the public domain or generally available to the public as through the issuance of patents, publication or otherwise.

ARTICLE 19 - FAIR LABOR STANDARDS ACT

19.1 Seller represents that nitrogen delivered to Buyer hereunder will have been produced in compliance with the Fair Labor Standards Act of 1938, as amended.

ARTICLE 20 - ASSIGNMENT

20.1 Any assignment of this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld, shall be void, provided however, that without requesting Buyer's approval, Seller may assign to a subsidiary or affiliate, all or part of this Agreement, and in such case, such subsidiary or affiliate will as of the date of such assignment be bound by and perform Seller's obligation under this Agreement.

ARTICLE 21 - APPLICABLE LAW

21.1 This Agreement will be governed by the laws of the State of Florida.

ARTICLE 22 - DURATION OF AGREEMENT

22.1 This Agreement will be in effect from the date hereof until ten (10) years after the date of the first delivery of nitrogen hereunder as specified in Exhibit A, item 7. Seller will provide Buyer written notice of the first delivery of nitrogen as provided in Article 24.1. No later than six (6) months prior to the date of expiration of this Agreement, Buyer and Seller shall negotiate in good faith for an extension of this Agreement, and Seller shall have a right of first refusal on any competitive offer for such extension at similar terms and conditions.

22.2 If, at any time after five (5) years from the date of first delivery of nitrogen hereunder as specified in Exhibit A, item 8, Buyer no longer requires nitrogen or inert gas at Buyer's Plant, Buyer shall have the right to terminate this Agreement by giving Seller not less than eighteen (18) months prior written notice of such termination and by paying Seller on the effective date thereof an amount equal to the then current monthly facility fee times 0.27 times the number of months remaining until the expiration of the ten (10) year

term of this Agreement.

ARTICLE 23 - PRIOR AGREEMENT

23.1 This Agreement will supersede the prior Agreement dated September 25, 1977 as amended between Buyer and Seller for delivery of Nitrogen to Buyer's Plant, but this Agreement shall not be construed as a renunciation or discharge of any obligations accrued thereunder. Said prior Agreement shall be superseded and terminated, without cost to Buyer, on the date of the first delivery of Nitrogen in accordance with Article 6 hereof.

ARTICLE 24 - NOTICES

24.1 Any written notice, invoice, or correspondence required under this Agreement shall be satisfactory if sent by first class mail and if given to Seller addressed to:

UNION CARBIDE INDUSTRIAL GASES, INC.
Linde Division
39 Old Ridgebury Road
Danbury, CT 06817-0001
Attention: On-Site Marketing Manager

and if given to Buyer, be addressed to:

MONSANTO COMPANY
800 North Lindberg Blvd.
St. Louis, MO 63167
Attn: Manager, Industrial Gases

and (as to Invoices)

UTILITY SUPERINTENDENT
MONSANTO COMPANY
P.O. Box 12830
Pensacola, FL 32575

ARTICLE 25 - ENTIRE AGREEMENT

25.1 The entire Agreement is contained herein and in Exhibit A hereto. There are no other promises, representations or warranties affecting this Agreement, and any other or different terms and conditions appearing in any purchase orders issued or accepted hereunder shall be deemed null and void. Neither of the parties shall be bound by any decisions, definitions, warranties or representations with respect to the subject matter hereof other than as expressly provided herein, or as duly set forth on or subsequent to the date hereof in a writing duly signed by the parties to be bound thereby.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

MONSANTO COMPANY

UNION CARBIDE INDUSTRIAL GASES, INC.
Linde Division

By James D. Anderson

By ^{D. J.} E. G. Hotard ^{WJK} MS
E.G. Hotard

Title Director, Purchasing
MCC

Title Vice President

Date 5/25/89

Date July 19, 1989

(MONSANT2.JAA)

EXHIBIT A

1. (See Articles 1.3 and 14.5) Site location as appended and having a load-bearing capacity of at least 2,500 pounds per square foot at three feet below finished grade.

2.

3.

4.

4.1

4.2

5.

6.

Exhibit A (continued)

7. (See Articles 6.1 and 22.1) First delivery will be considered to be on or about ten (10) months from the date of execution of this Agreement.
8. (See Articles 17.1, 17.2, 17.3, and 17.6) Specifications for electrical power, steam and water:
 - 8.1 The maximum connected load for 480 volt power will be 411 KVA* the limit of symmetrical short circuit current will be 22,000 RMS amperes. The maximum connected load for 2,400 volt power will be 906 KVA; the limit of symmetrical short circuit current will be 150 MVA.
 - 8.2 Buyer's power supply will have the capability to permit starting across the line of a 1,000 HP motor at 2400v and 250 HP @ 480v without causing a voltage drop in excess of 15% at Seller's bus. The supply voltage shall not have a variation of more than $\pm 5\%$. The supply shall be 60 hertz, grounded wye, with a total harmonic distortion of the sine wave of 5% and 3% for individual harmonics with an instantaneous voltage drop not to exceed 15%. The voltage unbalance between phases shall not be greater than $\pm 1\%$ for both instantaneous and steady state conditions except for system faults.
 - 8.3
 - 8.4
 - a.
 - b.
 - 8.5
- 9.
- 10.

*This number is reduced to 261 KVA if Buyer³ continues to use[?] the existing steam supply of 325 lb/hr @ 55 psig for 16 hrs each 6 months.

Exhibit A (continued)

11. (See Article 24.1) Additional provisions:

- 11.1 The parties to the Nitrogen Supply Agreement are only Buyer and Seller. Any obligations pertaining to the supply of nitrogen to purchaser(s) of segments of Buyer's business(es) located at Buyer's Plant are strictly between Buyer and such purchaser(s), and Seller has no obligations in connection therewith.
- 11.2 Buyer will make a specific condition of any nitrogen supply arrangement it may enter into with purchaser(s) of segments of Buyer's business(es) located at Buyer's Plant that such purchaser(s) acknowledge that its (their) nitrogen requirements are being supplied by Buyer, that Seller is not a party to such supply arrangement, and that such purchaser(s) is (are) not in privity nor has any rights under the Nitrogen Supply Agreement.
- 11.3 All invoices will be rendered to Buyer, and Buyer will make all payments for nitrogen delivered pursuant to the Nitrogen Supply Agreement, whether such nitrogen is supplied to Buyer or to purchaser(s) of segments of Buyer's business(es) located at Buyer's Plant.

EXHIBIT B

LEASE

THIS INDENTURE OF LEASE, made and entered into this 19th day of July _____, 1989, by and between MONSANTO COMPANY, a corporation organized and existing under the laws of the State of Delaware (hereinafter referred to as "Lessor"), and UNION CARBIDE INDUSTRIAL GASES, INC., Linde Division, a corporation organized and existing under the laws of the State of New York (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, by Agreement of even date between the parties hereto (hereinafter referred to as "Agreement"), Lessee agreed to construct, own and operate, maintain and service, facilities for the production, compression, storage, vaporization and metering of nitrogen (hereinafter called "Nitrogen Plant") on real property to be leased by Lessor to Lessee; and

WHEREAS, the parties hereto desire to create and enter into a separate lease of the aforementioned real property;

NOW, THEREFORE, for valuable consideration, receipt of which acknowledged, Lessor does hereby let and lease unto Lessee and Lessee does hereby lease from Lessor all of a certain parcel of land situate, lying and being in the County of Escambia, State of Florida (hereinafter referred to as the "Nitrogen Plant Site"), and being as shown on Drawing SK-D-136653, attached hereto and made a part hereof.

This Lease is made subject to the following terms and conditions which the parties hereto do covenant and agree to keep and perform.

1. This Lease, which is subject to the terms and conditions of the Agreement, shall terminate four (4) months after the termination or expiration

of the Agreement, or upon completion of the dismantling and removal of the Nitrogen Plant from the Nitrogen Plant Site, whichever shall first occur.

2. The Nitrogen Plant Site is to be used as the site for the installation, maintenance and operation of the Nitrogen Plant pursuant to the Agreement and for no other purpose.

3.

4. Lessor shall have the right to erect, and maintain at its own expense, a fence around the Nitrogen Plant Site should it so desire. Lessor shall have the right to limit Lessee's ingress and egress to and from the Nitrogen Plant Site to reasonable times except in cases of emergency. Lessor shall also have the right to indicate over what routes Lessee's ingress and egress to and from the Nitrogen Plant Site shall be. The use of Lessor's premises by Lessee, its employees, contractors, agents or others using the same under the authority of Lessee, is and at all times will be subordinate to and will not interfere with Lessor's use thereof.

5. Lessee shall maintain for the term of this Lease, at its own expense, the Nitrogen Plant in good order, repair, safe condition and a clean manner. Lessee, its employees, agents and contractors, shall at all times comply with all laws, regulations, and ordinances of any governmental authority which may be applicable to its design, construction, operation or maintenance of the Nitrogen Plant Site or the Nitrogen Plant along with all of the Lessor's reasonable plant rules and regulations, including, without limitation, those relating to parking, construction, welding, safety, smoking, traffic and fire protection. If Lessee

fails to bring its construction, operation or maintenance of the Nitrogen Plant into conformance with the provisions of this Paragraph 5, then Lessor may suspend the construction, operation and/or maintenance of the Nitrogen Plant by Lessee by giving reasonable notification until such time as Lessee demonstrates to Lessor its compliance with the provisions of this Paragraph 5.

6. The Nitrogen Plant and any other appurtenances placed upon the Nitrogen Plant Site by Lessee shall be considered personal property of Lessee. Lessee shall remove the Nitrogen Plant and any appurtenances thereto, but excluding the foundations, within 120 days following the later of such termination or expiration or Lessee's receipt of notice from Lessor to remove such plant.

Lessee shall

leave the Nitrogen Plant Site in good condition and leave in good working order all utilities and other improvements of Lessor as are then installed on the Nitrogen Plant Site.

7. This Lease shall not be assignable by either party without the written consent of the other but shall be binding upon and insure to the benefit of the legal successors of the respective parties hereto. Any attempt to transfer by assignment, sale, mortgage, encumbrance, subletting or grant, whether by operation of law or otherwise without such prior written consent shall be void and of no effect.

8. Lessor, its employees and agents may at all times enter upon the Nitrogen Plant Site only to examine and inspect the conditions thereof and the Nitrogen Plant and for other purposes authorized by the Agreement.

9. Lessor reserves for itself, its successors and assigns (a) the right to keep, maintain, use, operate, renew, reconstruct, adjust and remove all utility and service lines and similar facilities presently on, beneath or above the

Nitrogen Plant site, provided that Lessor in the exercise of such rights, and without limiting such rights, shall give consideration to any inconvenience to Lessee as a result thereof; (b) such rights-of-way and easements as Lessor, its successors and assigns may desire from time to time in connection with Lessor's present or future operations at the Lessor's Plant; and (c) the right to require Lessee to relocate the Nitrogen Plant or any part thereof on the Nitrogen Plant Site or onto other land of Lessor at the Lessor's Plant; provided, however, that Lessor will reimburse Lessee for its costs which may be reasonably incurred pursuant hereto and which, upon Lessor's request, will be certified by Lessee's independent auditors. If the Nitrogen Plant is so relocated, the description of the Nitrogen Plant Site as set forth in the Agreement shall be changed to incorporate the description of the new location, and Lessor and Lessee shall enter into a new lease, substantially similar in form and substance to this Lease, on the new location.

10. Lessor shall not intentionally or willfully prevent or unreasonably interfere with Lessee's performance under the Agreement and thereby prejudice Lessee's right to receive payment thereunder for any nitrogen which Lessor is obligated to take or pay for, provided Lessee is not in breach or default of any provision of the Agreement or Lease.

MONSANTO COMPANY

ATTEST:

BY James D. Anderson — *2/13*
(Signature)

TITLE Director, Purchasing - MCC

UNION CARBIDE INDUSTRIAL GASES, INC.
LINDE DIVISION

ATTEST:

BY ^{D-T} E. G. Hotard *WJG*
(Signature) E. G. Hotard

TITLE Vice President

(MONSANT2.JAA)

Amendment Number One to the
Nitrogen Supply Agreement
Dated July 19, 1989
between
Monsanto Company
and
Union Carbide Industrial Gases Inc.
Linde Division

The subject Nitrogen Supply Agreement is hereby amended as follows
by mutual agreement of Buyer and Seller:

1. A new Article 3.5 is added as follows:

"3.5 The Exhibit A, item 4.1,
, is hereby increased by
, effective as of March 1st, 1991".

2. Article 9 - Repricing of Plant Produced Nitrogen

The in Article 9.1 and 9.2 are
hereby deleted and substituted for the following:

a) In Article 9.1:

b) In Article 9.2:

3. Article 17 - Utilities

At the end of Article 17.1 add the following:

"Seller as part of the Nitrogen Plant will provide additional
overload relays in Seller's air compressor motor starter and
will coordinate operation of said relays with Buyer's
electrical feeder protection".

4. Exhibit A, item 9

The is hereby deleted and substituted
by .

5. Exhibit A, item 10

The is hereby deleted and substituted
by .

The provisions of this Amendment will be effective as of the date of Buyer's signature and remain in effect throughout the term of this Agreement.

All other terms and conditions of the foregoing subject Agreement dated July 19, 1989, as amended, will remain unchanged and in full force and effect.

IN WITNESS THEREOF, the parties have caused this Amendment to be executed.

MONSANTO COMPANY

UNION CARBIDE INDUSTRIAL GASES INC.
LINDE DIVISION

BY: James D. Anderson

BY: JRL DWT
7/5

TITLE: Director, Purchasing Monsanto
Chemical Company a unit of Monsanto Co.

TITLE: Business Director

DATE: 8/5/91

DATE: 9/30/91

MEMORANDUM

3/18/92

TO: xxx DIVISION OF APPEALS
 DIVISION OF AUDITING AND FINANCIAL ANALYSIS
 DIVISION OF COMMUNICATIONS
 DIVISION OF ELECTRIC AND GAS
 DIVISION OF RESEARCH
 DIVISION OF WATER AND SEWER
 DIVISION OF LEGAL SERVICES

FROM: DIVISION OF RECORDS AND REPORTING (FLYNN)

RE: CONFIDENTIALITY OF CERTAIN INFORMATION

DOCUMENT NO.: 2719-92

DESCRIPTION: 2 documents: Supply Agreement to Monsanto
Company for Compressed Air for Monsanto Pensacola Plant.
and "Pensacola Plant Nitrogen Generator, Linde Division of
Union Carbide," dated 4/18/89, with "Amendment Number One"
SOURCE: Monsanto Company

DOCKET NO.: 920198-E0

The above material was received with a request for confidentiality (attached). Please prepare a recommendation for the attorney assigned to the case by completing the section below and forwarding a copy of this memorandum, together with a brief memorandum supporting your recommendation, to the attorney. You must prepare and forward a recommendation within 10 working days from the date of this memorandum. Copies of your recommendation should also be provided to the Division of Records and Reporting and to the Division of Appeals.

Please read each of the following and check if applicable.

 The document(s) is (are), in fact, what the utility asserts it (them) to be.

 The utility has provided enough details to perform a reasoned analysis of its request.