

07-25-2002



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

102167742

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): K-G Packaging Inc. 17/03/02
Individual(s) Association
General Partnership Limited Partnership
Corporation-State Ontario, Canada
Other
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)
Name: Congress Financial Corporation (Canada)
Internal Address:
Street Address: 141 Adelaide Street, Suite 1500
City: Toronto State: Ontario Zip: M5H 3L9
Individual(s) citizenship
Association
General Partnership
Limited Partnership
Corporation-State Ontario, Canada
Other
If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:
Assignment Merger
Security Agreement Change of Name
Other
Execution Date: March 20, 2002

4. Application number(s) or registration number(s):
A. Trademark Application No.(s)
75/504,610; 75/344,933;
76/251,074
Additional number(s) attached Yes No

B. Trademark Registration No.(s)
1,743,821
Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: William M. Borchard, Esq.
Internal Address:
Street Address: Cowan, Liebowitz & Latman
1133 Avenue of the Americas
City: New York State: NY Zip: 10036

6. Total number of applications and registrations involved: 4
7. Total fee (37 CFR 3.41): \$ 115.00
Enclosed
Authorized to be charged to deposit account
8. Deposit account number:
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.
William M. Borchard
Name of Person Signing Signature
July 16, 2002
Date

Total number of pages including cover sheet, attachments, and document: 21

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

07/25/2002 0AHMED1 00000038 75504610
01 FC:481 40.00 OP
02 FC:482 75.00 OP

TRADEMARK REEL: 002549 FRAME: 0178

GENERAL SECURITY AGREEMENT

This General Security Agreement dated March 20, 2002 is made by K-G Packaging Inc., an Ontario corporation ("Grantor") in favour of Congress Financial Corporation (Canada), an Ontario corporation ("Congress").

WITNESSETH

WHEREAS, Congress has entered or is about to enter into certain financing arrangements with Grantor and 1132694 Ontario Inc. ("1132694") pursuant to which Congress may make loans and provide other financial accommodations to both Grantor and 1132694; and

WHEREAS, 1132694 and Grantor have executed and delivered or are about to execute and deliver the Loan Agreement; and

WHEREAS, Grantor has agreed to guarantee all obligations, liabilities and indebtedness of any kind, nature and description of 1132694 and/or its affiliates to Congress; and

WHEREAS, in order to induce Congress to enter into the Loan Agreement and the other Financing Agreements and to make the loans under the Loan Agreement, and as a condition precedent thereto, Congress requires that Grantor shall have executed and delivered this Agreement to secure the obligations of Grantor and 1132694 to Congress, as applicable, under the Loan Agreement or any guarantee delivered by Grantor to Congress;

NOW, THEREFORE, in consideration of the mutual conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

SECTION 1 DEFINITIONS

All terms used herein, which are defined in the PPSA, shall have the meanings given therein unless otherwise defined in this Agreement. All references to the plural herein shall also mean the singular and to the singular shall also mean the plural unless the context otherwise requires. All references to 1132694, Grantor, Congress or to any other person herein, shall include their respective successors and assigns. The words "hereof", "herein", "hereunder", "this Agreement" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced. The word "including" when used in this Agreement shall mean "including, without limitation". References herein to any statute or any provision thereof include such statute or provision as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto. An Event of Default shall exist or continue or be continuing until such Event of Default is waived in accordance with the applicable agreement. "Canadian Dollars" and the sign "\$" mean lawful money of Canada. For purposes of this Agreement, the following terms shall have the respective meanings given to them below:

- 1.1 “**Accounts**” shall mean all present and future rights of Grantor to payment for goods sold or leased or for services rendered, which are not evidenced by instruments or chattel paper, and whether or not earned by performance.
- 1.2 “**BIA**” shall mean the *Bankruptcy and Insolvency Act* (Canada).
- 1.3 “**Business Day**” shall mean a day (other than a Saturday, Sunday or statutory holiday in Ontario) on which Congress’ Toronto office is open for business in the normal course.
- 1.4 “**CCAA**” shall mean the *Companies’ Creditors Arrangement Act* (Canada).
- 1.5 “**Congress**” shall mean Congress Financial Corporation (Canada), an Ontario corporation, and its successors and assigns.
- 1.6 “**Equipment**” shall mean all of Grantor’s now owned and hereafter acquired equipment, machinery, computers and computer hardware and software (whether owned or licensed), vehicles, tools, furniture, fixtures, all attachments, accessions and property now or hereafter affixed thereto or used in connection therewith, and substitutions and replacements thereof, wherever located.
- 1.7 “**Event of Default**” shall have the meaning set forth in Section 6.1 hereof.
- 1.8 “**Financing Agreements**” shall mean, collectively, the Loan Agreement, this Agreement and all notes, guarantees, security agreements and other agreements, documents and instruments now or at any time hereafter executed and/or delivered by Grantor, 1132694 or any Obligor in connection with the Loan Agreement as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.
- 1.9 “**Guarantee**” means the guarantee of the indebtedness, liabilities and obligations of 1132694 to Congress made by the Grantor of even date herewith.
- 1.10 “**Information Certificate**” shall mean the Information Certificate of Grantor dated as of March 20, 2002 made by Grantor in favour of Congress.
- 1.11 “**Inventory**” shall mean all of Grantor’s now owned and hereafter existing or acquired raw materials, work in process, finished goods and all other inventory of whatsoever kind or nature, wherever located.
- 1.12 “**Loan Agreement**” shall mean the Loan Agreement, dated as of March 20, 2002, by and among Grantor, 1132694 and Congress, as the same now exists and may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.
- 1.13 “**Obligations**” shall mean any and all obligations, liabilities and indebtedness of every kind, nature and description owing by Grantor and 1132694 to Congress and any of its affiliates, including principal, interest, charges, fees, costs and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, whether arising under the Guarantee, the Loan Agreement, this Agreement, any other guarantee or otherwise, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of this

Agreement or after the commencement of any proceeding with respect to Grantor under the BIA, the CCAA or any similar statute in any jurisdiction (including the payment of interest and other amounts which would accrue and become due but for the commencement of such proceeding, whether or not such amounts are allowed or allowable in whole or in part in such proceeding), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured, and however acquired by Congress.

1.14 "Obligor" shall mean any other guarantor, endorser, acceptor, surety or other person liable on or with respect to the Obligations or who is the owner of any property which is security for the Obligations, other than Grantor.

1.15 "Person" or "person" shall mean any individual, sole proprietorship, partnership, limited partnership, corporation, limited liability company, business trust, unincorporated association, joint stock corporation, trust, joint venture or other entity or any government or any agency or instrumentality or political subdivision thereof.

1.16 "PPSA" shall mean the *Personal Property Security Act* (Ontario).

1.17 "Records" shall mean all of Grantor's present and future books of account of every kind or nature, purchase and sale agreements, invoices, ledger cards, bills of lading and other shipping evidence, statements, correspondence, memoranda, credit files and other data relating to the Collateral or any account debtor, together with the tapes, disks, diskettes and other data and software storage media and devices, file cabinets or containers in or on which the foregoing are stored (including any rights of Grantor with respect to the foregoing maintained with or by any other person).

SECTION 2 GRANT OF SECURITY INTEREST

To secure payment and performance of all Obligations, Grantor hereby grants to Congress a continuing security interest in, a lien upon, and a right of set off against, and hereby assigns to Congress as security, all of the present and after-acquired property of Grantor including the following property and interests in property of Grantor, whether now owned or hereafter acquired or existing, and wherever located (collectively, the "Collateral"):

2.1 Accounts;

2.2 all present and future contract rights, general intangibles (including tax and duty refunds, registered and unregistered patents, trademarks, service marks, copyrights, trade names, industrial designs, applications for the foregoing, trade secrets, goodwill, processes, drawings, blueprints, customer lists, licenses, whether as licensor or licensee, choses in action and other claims and existing and future leasehold interests in equipment, real estate and fixtures), chattel paper, documents, instruments, securities and other investment property, letters of credit, bankers' acceptances and guarantees including, without limitation, the intellectual property listed in Schedule 2.2 attached hereto;

2.3 all present and future monies, securities, credit balances, deposits, deposit accounts and other property of Grantor now or hereafter held or received by or in transit to Congress or its

affiliates or at any other depository or other institution from or for the account of Grantor whether for safekeeping, pledge, custody, transmission, collection or otherwise, and all present and future liens, security interests, rights, remedies, title and interest in, to and in respect of Accounts and other Collateral, including:

- (a) rights and remedies under or relating to guarantees, contracts of suretyship, letters of credit and other insurance related to the Collateral;
- (b) rights of stoppage in transit, replevin, repossession, reclamation and other rights and remedies of an unpaid vendor, lienholder or secured party;
- (c) goods described in invoices, documents, contracts or instruments with respect to, or otherwise representing or evidencing, Accounts or other Collateral, including, returned, repossessed and reclaimed goods; and
- (d) deposits by and property of account debtors or other persons securing the obligations of account debtors;

2.4 Inventory;

2.5 Equipment;

2.6 Records; and

2.7 all products and proceeds of the foregoing, in any form, including insurance proceeds and any claims against third parties for loss or damage to or destruction of any or all of the foregoing.

Notwithstanding the foregoing, Collateral shall not include:

- (a) the last day of the term of any lease (but upon the enforcement of Congress' rights hereunder, Congress shall stand possessed of such last day in trust to assign the same to any person acquiring such term); or
- (b) any Consumer Goods; or
- (c) any licenses, permits, contract rights or intellectual property rights as to which the grant of a security interest would constitute a violation or breach of a valid and enforceable restriction on such grant (hereinafter called the "Restricted Assets") unless and until any required consents shall have been obtained. Grantor agrees to use its best efforts to obtain any such required consents. Until such time as such consents have been obtained, the Restricted Assets shall be held in trust by Grantor for the benefit of Congress.

SECTION 3 COLLATERAL COVENANTS

3.1 Accounts Covenants.

- (a) Congress shall have the right at any time or times, in Congress' name or in the name of a nominee of Congress, to verify the validity, amount or any other matter relating to any Account or other Collateral, by mail, telephone, facsimile transmission or otherwise.
- (b) Grantor shall deliver or cause to be delivered to Congress, with appropriate endorsement and assignment, with full recourse to Grantor, all chattel paper and instruments which Grantor now owns or may at any time acquire immediately upon Grantor's receipt thereof, except as Congress may otherwise agree.
- (c) Congress may, at any time or times that an Event of Default exists or has occurred and is continuing:
 - (i) notify any or all account debtors that the Accounts have been assigned to Congress and that Congress has a security interest therein and Congress may direct any or all account debtors to make payment of Accounts directly to Congress;
 - (ii) extend the time of payment of, compromise, settle or adjust for cash, credit, return of merchandise or otherwise, and upon any terms or conditions, any and all Accounts or other obligations included in the Collateral and thereby discharge or release the account debtor or any other party or parties in any way liable for payment thereof without affecting any of the Obligations;
 - (iii) demand, collect or enforce payment of any Accounts or such other obligations, but without any duty to do so, and Congress shall not be liable for its failure to collect or enforce the payment thereof nor for the negligence of its agents or attorneys with respect thereto; and
 - (iv) take whatever other action Congress may deem necessary or desirable for the protection of its interests. At any time that an Event of Default exists or has occurred and is continuing, at Congress' request, all invoices and statements sent to any account debtor shall state that the Accounts and such other obligations have been assigned to Congress and are payable directly and only to Congress and Grantor shall deliver to Congress such originals of documents evidencing the sale and delivery of goods or the performance of services giving rise to any Accounts as Congress may require.

3.2 Inventory Covenants. With respect to the Inventory:

- (a) Grantor shall at all times maintain inventory records reasonably satisfactory to Congress, keeping correct and accurate records itemizing and describing the kind,

type, quality and quantity of Inventory, Grantor's cost therefor and daily withdrawals therefrom and additions thereto;

- (b) Grantor shall conduct a physical count of the Inventory at least once each year, but at any time or times as Congress may request on or after an Event of Default, and promptly following such physical inventory shall supply Congress with a report in the form and with such specificity as may be reasonably satisfactory to Congress concerning such physical count;
- (c) Grantor shall not remove any Inventory from the locations set forth on the Information Certificate or otherwise permitted herein, without the prior written consent of Congress, except for sales of Inventory in the ordinary course of Grantor's business and except to move Inventory directly from one location set forth or permitted herein to another such location;
- (d) upon Congress' request, Grantor shall, at its expense, no more than once in any twelve (12) month period, but at any time or times as Congress may request on or after an Event of Default, deliver or cause to be delivered to Congress written reports or appraisals as to the Inventory in form, scope and methodology acceptable to Congress and by an appraiser acceptable to Congress, addressed to Congress or upon which Congress is expressly permitted to rely;
- (e) Grantor shall produce, use, store and maintain the Inventory, with all reasonable care and caution and in accordance with applicable standards of any insurance and in conformity with applicable laws;
- (f) Grantor assumes all responsibility and liability arising from or relating to the production, use, sale or other disposition of the Inventory;
- (g) Grantor shall not sell Inventory to any customer on approval, or any other basis which entitles the customer to return or may obligate Grantor to repurchase such Inventory;
- (h) Grantor shall keep the Inventory in good and marketable condition; and
- (i) Grantor shall not, without prior written notice to Congress, acquire or accept any Inventory on consignment or approval.

3.3 Equipment Covenants. With respect to the Equipment:

- (a) upon Congress' request, Grantor shall, at its expense, at any time, or times as Congress may request on or after an Event of Default, deliver or cause to be delivered to Congress written reports or appraisals as to the Equipment in form, scope and methodology acceptable to Congress and by an appraiser acceptable to Congress;
- (b) Grantor shall keep the Equipment in good order, repair, running and marketable condition (ordinary wear and tear excepted);

- (c) Grantor shall use the Equipment with all reasonable care and caution and in accordance with applicable standards of any insurance and in conformity with all applicable laws;
- (d) the Equipment is and shall be used in Grantor's business and not for personal, family, household or farming use;
- (e) Grantor shall not remove any Equipment from the locations set forth on the Information Certificate, except to the extent necessary to have any Equipment repaired or maintained in the ordinary course of the business of Grantor or to move Equipment directly from one location set forth on the Information Certificate to another such location and except for the movement of motor vehicles used by or for the benefit of Grantor in the ordinary course of business;
- (f) the Equipment is now and shall remain personal property and Grantor shall not permit any of the Equipment to be or become a part of or affixed to real property; and
- (g) Grantor assumes all responsibility and liability arising from the use of the Equipment.

3.4 Power of Attorney. Grantor hereby irrevocably designates and appoints Congress (and all persons designated by Congress) as Grantor's true and lawful attorney-in-fact, and authorizes Congress, in Grantor's or Congress' name, to at any time an Event of Default or event which with notice or passage of time or both would constitute an Event of Default exists or has occurred and is continuing:

- (a) demand payment on Accounts or other proceeds of Inventory or other Collateral;
- (b) enforce payment of Accounts by legal proceedings or otherwise;
- (c) exercise all of Grantor's rights and remedies to collect any Account or other Collateral;
- (d) sell or assign any Account upon such terms, for such amount and at such time or times as Congress deems advisable;
- (e) settle, adjust, compromise, extend or renew an Account;
- (f) discharge and release any Account;
- (g) prepare, file and sign Grantor's name on any proof of claim in bankruptcy or other similar document against an account debtor;
- (h) notify the post office authorities to change the address for delivery of Grantor's mail to an address designated by Congress, and open and thereafter dispose of all mail addressed to Grantor; and

- (i) do all acts and things which are necessary, in Congress' determination, to fulfil Grantor's obligations under this Agreement and the other Financing Agreements;

and at any time to:

- (j) take control in any manner of any item of payment or proceeds thereof;
- (k) have access to any lockbox or postal box into which Grantor's mail is deposited;
- (l) endorse Grantor's name upon any items of payment or proceeds thereof and deposit the same in Congress' account for application to the Obligations;
- (m) endorse Grantor's name upon any chattel paper, document, instrument, invoice, or similar document or agreement relating to any Account or any goods pertaining thereto or any other Collateral;
- (n) sign Grantor's name on any verification of Accounts and notices thereof to account debtors; and
- (o) execute in Grantor's name and file any PPSA or other financing statements or amendments thereto.

Grantor hereby releases Congress and its officers, employees and designees from any liabilities arising from any act or acts under this power of attorney and in furtherance thereof, whether of omission or commission, except as a result of Congress' own gross negligence or wilful misconduct as determined pursuant to a final non-appealable order of a court of competent jurisdiction. This appointment, being coupled with an interest, shall not be revoked by the insolvency, bankruptcy, dissolution, liquidation or other termination of the existence of Grantor or for any other reason.

3.5 Right to Cure. Congress may, at its option,

- (a) cure any default by Grantor under any agreement with a third party or pay or bond on appeal any judgment entered against Grantor;
- (b) discharge taxes, liens, security interests or other encumbrances at any time levied on or existing with respect to the Collateral; and
- (c) pay any amount, incur any expense or perform any act which, in Congress' judgment, is necessary or appropriate to preserve, protect, insure or maintain the Collateral and the rights of Congress with respect thereto. Congress may add any amounts so expended to the Obligations and such amounts are to be repayable by Grantor on demand. Congress shall be under no obligation to effect such cure, payment or bonding and shall not, by doing so, be deemed to have assumed any obligation or liability of Grantor. Any payment made or other action taken by Congress under this Section shall be without prejudice to any right to assert an Event of Default hereunder and to proceed accordingly.

3.6 Access to Premises. From time to time as requested by Congress, at the cost and expense of Grantor,

- (a) Congress or its designee shall have complete access to all of Grantor's premises during normal business hours and after prior notice to Grantor, or at any time and without notice to Grantor if an Event of Default exists or has occurred and is continuing, for the purposes of inspecting, verifying and auditing the Collateral and all of Grantor's books and records, including, the Records; and
- (b) Grantor shall promptly furnish to Congress such copies of such books and records or extracts therefrom as Congress may request; and
- (c) use during normal business hours such of Grantor's personnel, equipment, supplies and premises as may be reasonably necessary for the foregoing and if an Event of Default exists or has occurred and is continuing for the collection of Accounts and realization of other Collateral.

SECTION 4 REPRESENTATIONS AND WARRANTIES

4.1 Grantor hereby represents and warrants to Congress the following (which shall survive the execution and delivery of this Agreement):

- (a) Loan Agreement. Each of the representations and/or warranties contained in the Loan Agreement as they relate to Grantor, including, without limitation, by reference to Obligor, is true and correct in all material respects.
- (b) Survival of Warranties; Cumulative. All representations and warranties contained in this Agreement or any of the other Financing Agreements to which Grantor is a party shall survive the execution and delivery of this Agreement and shall be deemed to have been made again to Congress on the date of each additional borrowing or other credit accommodation under the Loan Agreement and shall be conclusively presumed to have been relied on by Congress regardless of any investigation made or information possessed by Congress. The representations and warranties set forth herein shall be cumulative and in addition to any other representations or warranties which Grantor shall now or hereafter give, or cause to be given, to Congress.

SECTION 5 AFFIRMATIVE AND NEGATIVE COVENANTS

5.1 Loan Agreement Covenants. Grantor hereby agrees and covenants to comply with each and every agreement and covenant it makes and/or has made which relates to Grantor, including, without limitation, by reference to Obligor, pursuant to the Loan Agreement.

5.2 Further Assurances. At the request of Congress at any time and from time to time, Grantor shall, at its expense, at any time or times duly execute and deliver, or cause to be duly executed and delivered, such further agreements, documents and instruments, and do or cause to be done such further acts as may be necessary or proper to evidence, perfect, maintain and

enforce the security interests and the priority thereof in the Collateral and to otherwise effectuate the provisions or purposes of this Agreement or any of the other Financing Agreements to which it is a party. Where permitted by law, Grantor hereby authorizes Congress to execute and file one or more PPSA and other financing statements signed only by Congress.

SECTION 6 EVENTS OF DEFAULT AND REMEDIES

6.1 Events of Default. The occurrence or existence of any Event of Default under the Loan Agreement is referred to herein individually as an "Event of Default", and collectively as "Events of Default".

6.2 Remedies.

- (a) At any time while an Event of Default exists or has occurred and is continuing, Congress shall have all rights and remedies provided in this Agreement, the other Financing Agreements, the PPSA and other applicable law, all of which rights and remedies may be exercised without notice to or consent by Grantor or any Obligor, except as such notice or consent is expressly provided for hereunder or required by applicable law. All rights, remedies and powers granted to Congress hereunder, under any of the other Financing Agreements, the PPSA or other applicable law, are cumulative, not exclusive and enforceable, in Congress' discretion, alternatively, successively, or concurrently on any one or more occasions, and shall include, without limitation, the right to apply to a court of equity for an injunction to restrain a breach or threatened breach by Grantor of this Agreement or any of the other Financing Agreements to which Grantor is a party. Congress may, at any time or times, proceed directly against Grantor or any Obligor to collect the Obligations without prior recourse to the Collateral or any collateral at any time granted by Grantor or any Obligor to Congress.
- (b) Without limiting the foregoing, at any time an Event of Default exists or has occurred and is continuing, Congress may, in its discretion and without limitation:
 - (i) accelerate the payment of all Obligations and demand immediate payment thereof to Congress (provided, that, upon the occurrence of any Event of Default described in Sections 9.1(g) or 9.1(h) of the Loan Agreement, all Obligations shall automatically become immediately due and payable);
 - (ii) with or without judicial process or the aid or assistance of others, enter upon any premises on or in which any of the Collateral may be located and take possession of the Collateral or complete processing, manufacturing and repair of all or any portion of the Collateral and/or carry on the business of Grantor;
 - (iii) require Grantor, at Grantor's expense, to assemble and make available to Congress any part or all of the Collateral at any place and time designated by Congress;

- (iv) collect, foreclose, receive, appropriate, setoff and realize upon any and all Collateral;
 - (v) remove any or all of the Collateral from any premises on or in which the same may be located for the purpose of effecting the sale, foreclosure or other disposition thereof or for any other purpose;
 - (vi) sell, lease, transfer, assign, deliver or otherwise dispose of any and all Collateral (including entering into contracts with respect thereto, public or private sales at any exchange, broker's board, at any office of Congress or elsewhere) at such prices or terms as Congress may deem reasonable, for cash, upon credit or for future delivery, with Congress having the right to purchase the whole or any part of the Collateral at any such public sale, all of the foregoing being free from any right or equity of redemption of Grantor, which right or equity of redemption is hereby expressly waived and released by Grantor to the extent permitted by applicable law;
 - (vii) borrow money and use the Collateral directly or indirectly in carrying on Grantor's business or as security for loans or advances for any such purposes;
 - (viii) grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges, and otherwise deal with Grantor, account debtors of Grantor, sureties and others as Congress may see fit without prejudice to the liability of Grantor or Congress' right to hold and realize the security interest created under this Agreement. If any of the Collateral is sold or leased by Congress upon credit terms or for future delivery, the Obligations shall not be reduced as a result thereof until payment therefor is finally collected by Congress. If notice of disposition of Collateral is required by law, five (5) days prior notice by Congress to Grantor designating the time and place of any public sale or the time after which any private sale or other intended disposition of Collateral is to be made, shall be deemed to be reasonable notice thereof and Grantor waives any other notice. In the event Congress institutes an action to recover any Collateral or seeks recovery of any Collateral by way of prejudgment remedy, Grantor waives the posting of any bond which might otherwise be required.
- (c) Congress may apply the cash proceeds of Collateral actually received by Congress from any sale, lease, foreclosure or other disposition of the Collateral to payment of the Obligations, in whole or in part and in such order as Congress may elect, whether or not then due. Grantor shall remain liable to Congress for the payment of any deficiency with interest at the highest rate provided for in the Loan Agreement.
- (d) Congress may, by instrument in writing, or by application to any court of competent jurisdiction, appoint, remove and reappoint any person or persons,

including an employee or agent of Congress to be a receiver (the "Receiver") which term shall include a receiver and manager of, or agent for, all or any part of the Collateral. Any such Receiver shall, as far as concerns responsibility for his acts, be deemed to be the agent of Grantor and not of Congress, and Congress shall not in any way be responsible for any misconduct, negligence or non-feasance of such Receiver, his employees or agents. Except as otherwise directed by Congress, all money received by such Receiver shall be received in trust for and paid to Congress. Such Receiver shall have all of the powers and rights of Congress described in this Section 6.2. Congress may, either directly or through its agents or nominees, exercise any or all powers and rights of a Receiver.

- (e) Grantor shall pay all costs, charges and expenses incurred by Congress or any Receiver, whether directly or for services rendered (including, solicitor's costs on a solicitor and his own client basis, auditor's costs, other legal expenses and Receiver remuneration) in enforcing this Agreement and in enforcing or collecting Obligations and all such expenses together with any money owing as a result of any borrowing permitted hereby shall be a charge on the proceeds of realization and shall be secured hereby.

SECTION 7 JURY TRIAL WAIVER; OTHER WAIVERS AND CONSENTS; GOVERNING LAW

7.1 Governing Law; Choice of Forum; Service of Process; Jury Trial Waiver.

- (a) The validity, interpretation and enforcement of this Agreement and the other Financing Agreements and any dispute arising out of the relationship between the parties hereto, whether in contract, tort, equity or otherwise, shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (b) Grantor irrevocably consents and submits to the non-exclusive jurisdiction of the Supreme Court of Ontario and waives any objection based on venue or forum non conveniens with respect to any action instituted therein arising under this Agreement or any of the other Financing Agreements or in any way connected or related or incidental to the dealings of Grantor and Congress in respect of this Agreement or the other Financing Agreements or the transactions related hereto or thereto, in each case whether now existing or hereafter arising, and whether in contract, tort, equity or otherwise, and agrees that any dispute with respect to any such matters shall be heard only in the courts described above (except that Congress shall have the right to bring any action or proceeding against Grantor or its property in the courts of any other jurisdiction which Congress deems necessary or appropriate in order to realize on the Collateral or to otherwise enforce its rights against Grantor or its property).
- (c) To the extent permitted by law, Grantor hereby waives personal service of any and all process upon it and consents that all such service of process may be made by registered mail (return receipt requested) directed to its address set forth on the

signature pages hereof and service so made shall be deemed to be completed five (5) days after the same shall have been so deposited in the Canadian mails, or, at Congress' option, by service upon Grantor in any other manner provided under the rules of any such courts. Within thirty (30) days after such service, Grantor shall appear in answer to such process, failing which Grantor shall be deemed in default and judgment may be entered by Congress against Grantor for the amount of the claim and other relief requested.

- (d) GRANTOR HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (i) ARISING UNDER THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR (ii) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF GRANTOR AND CONGRESS IN RESPECT OF THIS AGREEMENT OR ANY OF THE OTHER FINANCING AGREEMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. GRANTOR HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT GRANTOR OR CONGRESS MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF GRANTOR AND CONGRESS TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.
- (e) Congress shall not have any liability to Grantor (whether in tort, contract, equity or otherwise) for losses suffered by Grantor in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this Agreement, or any act, omission or event occurring in connection herewith, unless it is determined by a final and non-appealable judgment or court order binding on Congress that the losses were the result of acts or omissions of Congress constituting gross negligence or willful misconduct. In any such litigation, Congress shall be entitled to the benefit of the rebuttable presumption that it acted in good faith and with the exercise of ordinary care in the performance by it of the terms of this Agreement and the other Financing Agreements.
- (f) Grantor hereby expressly waives all rights of notice and hearing of any kind prior to the exercise of rights by Congress from and after the occurrence of an Event of Default to repossess the Collateral with judicial process or to replevy, attach or levy upon the Collateral or other security for the Obligations. Grantor waives the posting of any bond otherwise required of Congress in connection with any judicial process or proceeding to obtain possession of, replevy, attach or levy upon the Collateral or other security for the Obligations, to enforce any judgment or other court order entered in favour of Congress or to enforce by specific performance, temporary restraining order, preliminary or permanent injunction, Loan Agreement or any other Financing Agreement.

7.2 Waiver of Notices. Grantor hereby expressly waives demand, presentment, protest and notice of protest and notice of dishonour with respect to any and all instruments and commercial paper, included in or evidencing any of the Obligations or the Collateral, and any and all other demands and notices of any kind or nature whatsoever with respect to the Obligations, the Collateral and this Agreement, except such as are expressly provided for herein. No notice to or demand on Grantor which Congress may elect to give shall entitle Grantor to any other or further notice or demand in the same, similar or other circumstances.

7.3 Amendments and Waivers. Neither this Agreement nor any provision hereof shall be amended, modified, waived or discharged orally or by course of conduct, but only by a written agreement signed by an authorized officer of Congress, and as to amendments, as also signed by an authorized officer of Grantor. Congress shall not, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its rights, powers and/or remedies unless such waiver shall be in writing and signed by an authorized officer of Congress. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Congress of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which Congress would otherwise have on any future occasion, whether similar in kind or otherwise.

7.4 Waiver of Counterclaims. Grantor waives all rights to interpose any claims, deductions, setoffs or counterclaims of any nature (other than compulsory counterclaims) in any action or proceeding with respect to this Agreement, the Obligations, the Collateral or any matter arising therefrom or relating hereto or thereto.

7.5 Indemnification. Grantor shall indemnify and hold Congress and its directors, agents, employees and counsel, harmless from and against any and all losses, claims, damages, liabilities, costs or expenses imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to the negotiation, preparation, execution, delivery, enforcement, performance or administration of this Agreement, any other Financing Agreements, or any undertaking or proceeding related to any of the transactions contemplated hereby or any act, omission, event or transaction related or attendant thereto, including amounts paid in settlement, court costs, and the fees and expenses of counsel. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section may be unenforceable because it violates any law or public policy, Grantor shall pay the maximum portion which it is permitted to pay under applicable law to Congress in satisfaction of indemnified matters under this Section. The foregoing indemnity shall survive the payment of the Obligations, the termination of this Agreement and the termination or non-renewal of the Loan Agreement. All of the foregoing costs and expenses shall be part of the Obligations and secured by the Collateral.

SECTION 8 MISCELLANEOUS

8.1 Notices. All notices, requests and demands hereunder shall be in writing and

- (a) made to Congress at 141 Adelaide Street West, Suite 1500, Toronto, Ontario, M5H 3L9 and to Grantor at its chief executive office set forth below, or to such

other address as either party may designate by written notice to the other in accordance with this provision; and

- (b) deemed to have been given or made: if delivered in person, immediately upon delivery; if by facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next Business Day, one (1) Business Day after sending; and if by registered mail, return receipt requested, five (5) days after mailing.

8.2 Judgment Currency. To the extent permitted by applicable law, the obligations of Grantor in respect of any amount due under this Agreement and other Financing Agreements to which Grantor is a party shall, notwithstanding any payment in any other currency (the "Other Currency") (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in the currency in which it is due (the "Agreed Currency") that Congress, may, in accordance with normal banking procedures, purchase with the sum paid in the Other Currency (after any premium and costs of exchange) on the Business Day immediately after the day on which Congress, receives the payment. If the amount in the Agreed Currency that may be so purchased for any reason falls short of the amount originally due, Grantor shall pay all additional amounts, in the Agreed Currency, as may be necessary to compensate for the shortfall. Any obligation of Grantor not discharged by that payment shall, to the extent permitted by applicable law, be due as a separate and independent obligation and, until discharged as provided in this Section, continue in full force and effect.

8.3 Partial Invalidity. If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate this Agreement as a whole, but this Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable and the rights and obligations of the parties shall be construed and enforced only to such extent as shall be permitted by applicable law.

8.4 Successors. This Agreement, the other Financing Agreements and any other document referred to herein or therein shall be binding upon Grantor and its successors and assigns and inure to the benefit of and be enforceable by Congress and its successors and assigns, except that Grantor may not assign its rights under this Agreement, the other Financing Agreements and any other document referred to herein or therein to which it is a party without the prior written consent of Congress.

8.5 Entire Agreement. This Agreement, the other Financing Agreements, any supplements hereto or thereto, and any instruments or documents delivered or to be delivered in connection herewith or therewith represents the entire agreement and understanding concerning the subject matter hereof and thereof between the parties hereto, and supersede all other prior agreements, understandings, negotiations and discussions, representations, warranties, commitments, proposals, offers and contracts concerning the subject matter hereof, whether oral or written.

8.6 Attachment. The security interest created hereby is intended to attach when this Agreement is executed by Grantor and delivered to Congress.

8.7 Headings. The division of this Agreement into Sections and the insertion of headings are for convenience only and shall not affect the construction or interpretation of this Agreement.

8.8 Acknowledgement. Grantor acknowledges receipt of a copy of this Agreement and waives its right to receive a copy of any financing statement, financing change statement or verification statement which may be filed by or issued to Congress pursuant to the PPSA.

8.9 Facsimile. This Agreement may be executed and delivered by facsimile transmission and Congress may rely on all such facsimile signatures as though such facsimile signatures were original signatures.

IN WITNESS WHEREOF, Grantor has caused these presents to be duly executed as of the day and year first above written.

K-G PACKAGING INC.

By: _____

Name: William Henry Lee Paige
Title: President

Chief Executive Office:

7550 Kimbel Street
Mississauga, Ontario L5S 1A2

Fax: (905) 677-9603

**SCHEDULE 2.2
INTELLECTUAL PROPERTY**

TRADEMARKS

(TRADEMARK REGISTRATIONS)

<u>Trademark</u>	<u>Registration No.</u>	<u>Registration Date</u>
Artistry	Canada 515,861	August 31, 1999
Colour Vision	Canada 512,063	May 20, 1999
Diamond Design (water based paint) (water based acrylic Enamel & Design)	Canada 346,903	October 21, 1988
Everi-Color	Canada 386,234	June 28, 1991
Hidez	Canada 386,232	June 28, 1991
Just Enough	Canada 514,800	August 19, 1999
Juste Assez	Canada 521,706	January 18, 2000
K-G Packaging	Canada 310,459	January 17, 1986
Kwik Kote	Canada 511,987	May 18, 1999
Loggers	Canada 386,233	June 28, 1991
Loosen-All	Canada 136,230	June 19, 1964
Lumberjacks Swellcoat & Design	Canada 431,189	July 29, 1994
Speckle Stone	Canada 410,274	April 2, 1993
Speckle Stone	U.S.A. 1,743,821	December 29, 1992
Trade Winds	Canada 516,015	September 1, 1999
V7 Spray Paint	Canada 464,336	October 18, 1996
Wow	Canada 536,870	November 7, 2000

(TRADEMARK APPLICATIONS)

<u>Trademark</u>	<u>Application No.</u>	<u>Filing Date</u>
Artistry	U.S.A. 75/504,610	June 18, 1998
Color Vision	U.S.A. 75/344,933	August 21, 1997
Easy Coat	Canada 1,002,864	January 25, 1999
Hot as Hell	Canada 1,055,169	April 14, 2001
Hot as Hell	U.S.A. 76-251,074	May 7, 2001
Medallion	Canada 1,055,168	April 14, 2000

PATENTS

<u>Title</u>	<u>Patent No.</u>	<u>Expiry Date</u>
Merchandising Unit	U.S. D418,331	January 4, 2014
KG Propellant Active Carrier System for Water Based Paint	Austria 392,076	July 15, 2008
KG Propellant Active Carrier System for Water Based Paint	U.S. 4,450,253	November 12, 2002

(PATENT APPLICATIONS)

<u>Title</u>	<u>Application No.</u>	<u>Filing Date</u>

INDUSTRIAL DESIGNS

COPYRIGHTS

LICENSOR LICENSING AGREEMENTS

LICENSEE LICENSING AGREEMENTS

OTHER INTELLECTUAL PROPERTY

DK

Z:\Clients\Congress Financial\Spray-Pak\Docs\General Security Agreement - 1502190 - 4.doc