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Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings



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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): Goodman Equipment Corporation

2. Name and address of receiving party(ies) Name: Patrick D. Cavanaugh Internal Address: High Ridge Partners, Inc. Street Address: 140 S. Dearborn St. Ste. 820 City: Chicago State: IL Zip: 60603

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance: Assignment Merger Security Agreement Change of Name Other Trust Agreement & Assignment Execution Date: April 24, 2003

Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Other Trustee-Assignee

4. Application number(s) or registration number(s):

502270 860902 729662 261845 875986

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: John G. Bisbikis

Internal Address: McDermott, Will & Emery

Suite 4400

Street Address: 227 West Monroe Street

City: Chicago State: IL Zip: 60606

6. Total number of applications and registrations involved: 5

7. Total fee (37 CFR 3.41): \$ 140.00

Enclosed Authorized to be charged to deposit account

8. Deposit account number: 13-0206

(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.

John G. Bisbikis Name of Person Signing

Signature

July 31, 2003 Date

Total number of pages including cover sheet, attachments, and document: 16

08/06/2003 ECDUPER 00000236 130206 502270

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

01 FC:8521 40.00 BA 02 FC:8522 100.00 BA

TRADEMARK REEL: 002796 FRAME: 0142

**TRUST AGREEMENT AND ASSIGNMENT  
FOR THE BENEFIT OF CREDITORS OF  
GOODMAN EQUIPMENT CORPORATION**

THIS TRUST AND AGREEMENT AND ASSIGNMENT FOR THE BENEFIT OF CREDITORS, is made and entered into this ~~24~~ day of April, 2003, by and between Goodman Equipment Corporation a Delaware corporation, located at 6646A South Narragansett Avenue, Bedford Park, Illinois 60638 (hereinafter referred to as "Goodman"), and Patrick D. Cavanaugh of HIGH RIDGE PARTNERS, INC., located at 140 South Dearborn Street, Suite 820, Chicago, Illinois 60603 (hereinafter referred to as the "Trustee-Assignee").

**WITNESSETH:**

WHEREAS, Goodman is indebted to various persons, corporations and other entities and is unable to pay its debts in full, and has decided to discontinue its business, and is desirous of transferring its property to an Assignee for the benefit of its creditors so that the property so transferred may be expeditiously liquidated and the proceeds thereof be fairly distributed to its creditors without any preference or priority, except such priority as is established and permitted by applicable law;

NOW, THEREFORE, in consideration of Goodman's existing indebtedness to its creditors, the express undertakings of the Trustee-Assignee and the mutual covenants contained herein, it is hereby AGREED:

1. **Creation and Object of Trust.** The name of this Trust shall be the "**Goodman Equipment Corporation Trust Agreement**" and its object shall be the orderly liquidation of the assets and property of Goodman, and the distribution of the proceeds therefrom to creditors of Goodman in accordance with applicable law. Goodman hereby nominates and appoints

Patrick D. Cavanaugh as Trustee-Assignee to carry out the purpose of this Trust in accordance with its terms and conditions. The Trustee-Assignee shall have the powers and duties hereinafter set forth, and shall receive reasonable compensation for his services and reimbursement of his expenses, including, but not limited to reimbursement of his attorneys' fees and costs. The Trustee-Assignee may serve without bond. In the event of death, inability or refusal to act, or the resignation of Patrick D. Cavanaugh, as Trustee-Assignee, then, in any such event, Nancy A. Ross also of High Ridge Partners, Inc., is hereby appointed as Successor Trustee-Assignee with all the duties, rights, and powers herein imposed upon and granted to Patrick D. Cavanaugh, as original Trustee-Assignee.

2. **Transfer of Assets.** Goodman does hereby grant, convey, assign, transfer and set over to the Trustee-Assignee, and his Successor Trustee-Assignee, all property and assets of Goodman, whatsoever and where so ever situated, which are now, or ever have been, used in connection with the operation of Goodman's business. The property and assets transferred shall include, without limitation, if any such assets exists, all real and personal property, tangible and intangible, including, without limitation, all cash on hand, bonds, bank accounts, all accounts receivable, all furniture, fixtures, equipment, leasehold improvements, inventory, general intangibles, patents, insurance premium and/or policy refunds, trade names, trademarks, franchises, service marks, and causes of action. Title to the property and assets of Goodman shall immediately vest in the Trustee-Assignee for the use and purpose hereinafter set forth, subject to all existing liens and security interests.

3. **Powers and Duties of Trustee-Assignee.** The Trustee-Assignee shall have, inter alia, the following powers, rights and duties:

- (a) To collect any and all accounts receivable owing to Goodman.

(b) To sell, or otherwise dispose of, if such exists, all real property of Goodman in such manner as the Trustee-Assignee deems best. The Trustee-Assignee shall have the power to execute any and all documents necessary to effectuate a sale of said real property and to convey title to same.

(c) To sell, or otherwise dispose of, if such exists, all tangible and intangible personal property of Goodman, including, but not limited to, all of its machinery, equipment, inventory, service marks, trade names, trademarks, patents, franchises, causes of action and general intangibles, at private or public sale upon such notice and upon such terms as the Trustee-Assignee deems best. To the extent such assets are subject to valid, subsisting and enforceable liens or other encumbrances, the proceeds of such sale(s) will be paid to such secured creditor(s) in the order of priority. The Trustee-Assignee shall have the power to employ an auctioneer to conduct such a sale and to advertise such sale in such manner as the Trustee-Assignee deems best. The Trustee-Assignee shall have the power to execute bills of sale and any other documents necessary to convey title to Goodman's personal property. The Trustee-Assignee shall have the power to enter into an agreement with any party to participate in a liquidation sale with the Trustee-Assignee hereunder for the benefit of creditors sharing in the profits from such sale.

(d) To employ attorneys, accountants, and such additional personnel to whatever extent may be necessary to handle the administrative details of this Trust.

(e) To require all creditors of Goodman to whom a balance is now owing to submit verified statements of their accounts.

(f) To settle any and all claims against or in favor of Goodman, with full power to compromise, or in the discretion of the Trustee-Assignee, to sue or be sued, and to



prosecute or defend any claim or claims of any nature whatsoever existing against or in favor of Goodman.

(g) To pay the creditors of Goodman out of the moneys which shall come into his hands as Trustee, that are not subject to any valid subsisting and enforceable liens or other encumbrances according to the following priorities to the extent provided by existing law:

(1) First, all costs for the preservation of the Trust assets, including the maintenance and insurance thereon, the expenses of operation, and such other administrative expenses as shall be reasonably be incurred.

(2) Second, all costs and expenses incidental to the administration of the Trust, including the remuneration of the Trustee-Assignee and the payment of reasonable compensation for the services of attorneys for the Trustee-Assignee. These costs and expenses shall include those incidental to the preparation and execution of this Trust Agreement. The Trustee-Assignee shall also have the right to pay an accountant reasonable compensation for services performed in connection with the administration of this Trust and the attorneys for Goodman for such services as shall be rendered in aid of the administration of this Trust and its property.

(3) Third, all federal taxes of any nature whatsoever owing as of the date of this Trust Agreement, including, but not limited to, federal withholding tax, federal unemployment tax and other federal income, excise, property and employment taxes.



(4) Fourth, all state and county taxes of any nature whatsoever owing as of the date of this Trust Agreement, including, but not limited to, state and county employment, property and income taxes.

(5) Fifth, with the exception of those classes set forth above, all distributions to other creditors shall be, within each class, pro rata in accordance with the terms of each creditor's indebtedness, until all such debts are paid in full. The Trustee-Assignee shall make interim distributions whenever the Trustee-Assignee accumulates sufficient funds to enable him to make a reasonable distribution. No distribution shall be in an amount less than \$100,000, except the final distribution or in the Trustee-Assignee's sole discretion.

(6) Sixth, the surplus, if any, of the Trust's funds, when all debts of the Trust shall have been paid in full, shall be paid and transferred to Goodman by the Trustee- Assignee.

(h) To do and perform any and all other acts necessary and proper for the orderly liquidation or other disposition, including, but not limited to, abandonment, of the assets and property of Goodman and the distribution of the proceeds derived therefrom to the creditors of Goodman.

4. **Employment of Counsel of Trustee-Assignee.** It is hereby represented and agreed by the parties that the Trustee-Assignee can retain counsel to render such legal services as the Trustee-Assignee requires during the existence of this Trust. Additional special counsel may be retained by the Trustee-Assignee should he deem the same necessary to prosecute or defend

any legal or equitable action or to perform such other duties as may be required in the circumstances.

5. **Rights of Creditors.** All rights and remedies of the creditors against any surety or sureties for Goodman are hereby expressly reserved and nothing herein contained shall prevent the creditors or any of them from suing any third parties or persons who may be liable to any of the creditors for all or any part of their claims against Goodman, or from enforcing or otherwise obtaining the full benefit of any mortgage, charge, pledge, lien or other security which they now hold on any property, creditors or effects of Goodman.

6. **Administration of Trust.** This Trust shall be administered out of court. The Trustee-Assignee shall, however, have the right to ask any court of competent jurisdiction for a declaratory judgment or such other relief as the Trustee-Assignee may deem necessary, if, in his opinion, said action is desirable in connection with any dispute or claim arising hereunder.

7. **Liability of Trustee-Assignee.** It is understood and agreed that the Trustee-Assignee is to assume no personal liability or responsibility for any of his acts as Trustee-Assignee herein, but his obligation shall be limited to the performance of the terms and conditions of the Trust Agreement, in good faith and in the exercise of his best judgment.

8. **Warranties of Goodman Equipment Corporation.** Goodman hereby warrants as follows:

(a) The list of creditors delivered concurrently herewith to the Trustee-Assignee is complete and correct as reflected by the books and records of Goodman, or through its officers and directors, as to names of said creditors, their addresses and the amounts due them.

(b) Goodman, through its officers and directors, shall perform any and all acts reasonably necessary and proper to assist the Trustee-Assignee in the orderly liquidation of

Goodman's assets and the collection of moneys owing to Goodman, and in the distribution of said moneys and the proceeds of asset sales to Goodman's creditors; provided, however, the officers and directors of Goodman shall only provide such assistance to the Trustee-Assignee to the extent, and on the condition that, they are reasonably compensated for such services.

9. Acceptance by Trustee-Assignee. The Trustee-Assignee does hereby accept the Trust herein created and agrees to faithfully perform the same according to the best of the Trustee-Assignee's skill, knowledge and ability. It is understood that the Trustee-Assignee shall receive reasonable compensation for his services rendered in connection with this Trust.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

GOODMAN EQUIPMENT CORPORATION

By: *Alvin G. Quynelle*

Its: Chairman + CEO

Attest: *Michael P. ...*



**ACCEPTANCE**

I, Patrick D. Cavanaugh, the Trustee-Assignee here in above named, do hereby accept the Trust hereinafter set forth, not individually, but as Trustee-Assignee, subject to the conditions set forth above.

Patrick D. Cavanaugh

At Chicago, Illinois, this 24 day of April, 2003.

Subscribed and Sworn to

before me this 24 day

of April, 2003.



Janet M. Allen  
Notary Public

**ACTION BY BOARD OF DIRECTORS AND MAJORITY SHAREHOLDER OF GOODMAN EQUIPMENT CORPORATION**

We, the undersigned, being all members of the Board of Directors (hereinafter referred to as the "Board") and a majority of the holders of the issued and outstanding equity securities of GOODMAN EQUIPMENT CORPORATION, a Delaware corporation (hereinafter referred to as the "Company"), without a meeting upon other and further notice, the same being hereby waived, resolve that the following actions be taken by the Company:

1. IT IS RESOLVED: That the Company shall enter into a Trust Agreement for the Benefit of Creditors and shall cause to be made an Assignment of its assets to this Trust with the object being an orderly liquidation of the Company's business and assets.

2. IT IS FURTHER RESOLVED: That the officers of the Company are hereby authorized and directed to execute and deliver all necessary papers and documents pertaining to the creation of the Trust and Assignment for the Benefit of Creditors to Patrick D. Cavanaugh, as Trustee-Assignee, and said Trustee-Assignee shall be authorized to do any and all acts necessary in order to fully carry out the intent and purposes of such Trust Agreement and Assignment for the Benefit of Creditors.

3. IT IS FURTHER RESOLVED: That the officers of the Company are hereby authorized and directed to execute and deliver any and all other papers and documents, and to take any and all other acts which may be necessary in order to fully carry out the intent and purposes of the Trust Agreement and Assignment for the Benefit of Creditors.

DATED: April 24, 2003

By: Calvin A. Campbell, Jr.  
Calvin A. Campbell, Jr.  
Chairman, Chief Executive Officer,  
Sole Director and Majority  
Shareholder of Goodman Equipment  
Corporation

# INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

THIS INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT, dated as of May 22, 2003 (this "Assignment"), is between PATRICK CAVANAUGH, not individually, but solely as Assignee ("Seller") of GOODMAN EQUIPMENT CORPORATION (the "Company") and BATEMAN TRIDENT (PTY) LTD., a corporation organized under the laws of South Africa ("Purchaser").

## RECITALS

A. Purchaser and Seller have entered into that certain Asset Purchase Agreement dated May 20, 2003 (the "Asset Purchase Agreement"), relating to the purchase and sale of certain assets of the Company including certain "Intellectual Property" (as defined in the Asset Purchase Agreement), including, but not limited to, the patents and trademarks listed on Schedule A hereto. All terms used herein and not otherwise defined shall have meanings given to them in the Asset Purchase Agreement.

B. This Assignment is executed and delivered pursuant to the Asset Purchase Agreement.

NOW, THEREFORE, Assignor and Assignee hereby agree as follows:

1. Consideration. For good and valuable consideration, receipt and sufficiency of which Seller specifically acknowledges, Seller assigns, transfers and sells the Intellectual Property to Purchaser.

2. Grant of Rights to Intellectual Property. Seller grants, conveys, transfers, alienates and assigns to Purchaser, for and throughout the world, Seller's rights, titles and interests (legal, equitable, use and otherwise) in and to any and all: (i) rights to file and register the Intellectual Property in Seller or the Company's name with any governmental authority; (ii) rights to record the transfers made under this Assignment in the United States Patent and Trademark Office and in any other public offices of any governmental authorities throughout the world; (iii) rights to sue for, collect and retain damages predicated on present or future infringements of the Intellectual Property, as well as all other claims and rights to damages associated with the Intellectual Property, whether predicated on past, present or future actions or omissions, and whether or not currently known or unknown; and (iv) goodwill associated with the Intellectual Property.

3. Further Instruments. Seller shall execute, acknowledge and deliver to Purchaser such further instruments and documents which relate to the Intellectual Property as set forth in this Assignment as Purchaser may reasonably request from time to time to facilitate registration of any such filings or to record the transfers made in this Assignment in any public office, or otherwise to give notice or evidence of Purchaser's exclusive rights to the Intellectual Property and all claims or rights thereunder.

4. No Retained Rights. Seller's assignment of the Intellectual Property to Purchaser under this Assignment constitutes a complete, absolute and exclusive transfer of all rights (legal, equitable, use and otherwise) in the Intellectual Property, whether currently existing or arising or recognized in the future. Seller does not reserve or retain any right, title or interest in the Intellectual Property. Seller acknowledges and agrees that the Intellectual Property constitutes the sole and exclusive property of Purchaser.

5. Authorization. Seller represents and warrants that it has full power and authority: (i) to enter into this Assignment; (ii) to grant to Purchaser all rights in and to the Intellectual Property; and (iii) to perform all of its obligations under this Assignment.

6. Binding Effect. This Assignment shall be binding upon and inure to the benefit of Purchaser, its successors and assigns and Seller and its permitted successors. This Assignment supersedes any prior understandings, written agreements or oral arrangements among the parties which concerns the subject matter of this Assignment. The terms of this Assignment shall govern if there is any conflict between this Assignment and any other written instrument that concerns or affects the subject matter of this Assignment.

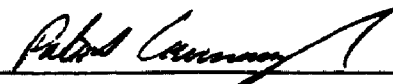
7. Complete Understanding. This Assignment constitutes the complete understanding among the parties. No alteration or modification of any of this Assignment's provisions shall be valid unless made in a written instrument that both parties sign.

8. Severability. If a court of competent jurisdiction holds that any one or more of this Assignment's provisions are invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any of this Assignment's other provisions, and this Assignment shall be construed as if it had never contained such invalid, illegal or unenforceable provisions.

9. Waiver. A party's attempted waiver, consent or authorization of any kind, whether required pursuant to the terms of this Assignment or granted pursuant to any breach or default under this Assignment, shall not be effective or binding upon such party unless the same is in a written instrument which such party has signed. Any such waiver, consent or authorization will be valid solely to the extent specifically set forth in such written instrument. No failure or delay on the part of any party to this Assignment to exercise any right, remedy, power or privilege shall preclude or limit any other or further exercise of such right or the exercise of any other right, remedy, power or privilege with respect to the same or any other matter.

IN WITNESS WHEREOF, the parties have executed this Intellectual Property Assignment Agreement by and through their duly authorized officers as of the date first written above.

SELLER:

By:   
Patrick Cavanaugh, not individually, but solely  
as Assignee

PURCHASER:

BATEMAN TRIDENT (PTY) LTD.  
By:   
Its: \_\_\_\_\_

Schedule A

Patents and Trademarks

See attached.

## SCHEDULE A

### United States Domain Names

1. GOODMANEQUIPMENT.COM – active from April 26, 2002 through April 26, 2004
2. LOCOMOTIVES.COM – active from April 26, 2002 through April 26, 2004

### Foreign Domain Names

1. GOODMAN.CO.ZA – South African domain name (unfiled)

### Unites States Trademarks

<u>Mark</u>	<u>Registration Number</u>
CONWAY and Design	502,270
FLAT STROKE & DESIGN	860,962
GOODMAN	729,662
LITTLE TRAMMER	261,845
MANCHA	875,986

### Foreign Trademarks

<u>Mark</u>	<u>Country</u>	<u>Registration Number</u>
GOODMAN	Australia	A166,204
GOODMAN	Bolivia	31,790
GOODMAN	Brazil	006400728
GOODMAN	Canada	132,236
GOODMAN	Chile	453,889
GOODMAN	Mexico	198,805
GOODMAN	Peru	94521
GOODMAN	South Africa	64/0187
GOODMAN	Zambia	592/96
GOODMAN EQUIPMENT	South Africa	1316005DN
GOODMAN LOCOMOTIVES	South Africa	1317533DN
MANCHA	Australia	A228,123

MANCHA	Bolivia	A-49840
MANCHA	Brazil	760009139
MANCHA	Chile	325,280
MANCHA	Columbia	90,882
MANCHA	Mexico	196,110
MANCHA	Peru	24,376
MANCHA	South Africa	68/3831

Foreign Patents

<u>Patent Number</u>	<u>Country</u>	<u>Issue Date</u>	<u>Title/Description</u>
9001838	South Africa	12/28/1990	Operating Mechanism for Brakes – Utilizes axial pull on spindle to apply brakes and comprises mounting for spindle
9604592	South Africa	10/29/1997	Locomotive Brake Shoe – Has major braking surface made of metal reinforced rubber, and end tips made from cast iron or similar material
9402494	South Africa	2/22/1995	Brake Operating Mechanism Worked by Lever – Comprises boss axially fixed to spindle and rotatable upon it, with inclined boss faces contacting complementary surfaces on fixed bearing