


**DRINKER BIDDLE & REATH LLP**

1500 K Street, N.W., Suite 1100  
Washington, D.C. 20005-1209  
(202) 842-8800

<p>1. NAME OF CONVEYING PARTY:</p> <p>4187237 Canada Inc. a corporation of Canada</p>	<p>2. NAME AND ADDRESS OF RECEIVING PARTY:</p> <p><b>The Toronto-Dominion Bank</b> 433 Chabanel Ouest, Suite 101 Montreal, Quebec Canada H2N 2J3</p>
<p>3. NATURE OF CONVEYANCE:</p> <p><input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input checked="" type="checkbox"/> <b>Security Agreement</b> <input type="checkbox"/> Change of Name <input type="checkbox"/> Release of Security Interest</p> <p>3A. EXECUTION DATE: <b>May 26, 2004</b> 3B. EFFECTIVE DATE: <b>May 26, 2004</b></p>	<p>2A. ASSIGNEE A FOREIGN ENTITY:</p> <p><u>Yes</u></p> <p>2B. DOMESTIC REPRESENTATIVE DESIGNATED:</p> <p>N/A</p>
<p>4A. TRADEMARK APPLICATION NOS.:</p> <p>Additional numbers attached? <b>NO</b></p>	<p>4B. TRADEMARK REGISTRATION NO(S).:</p> <p><b>Reg. No. 2,315,474 – OSCAR LEOPOLD</b></p> <p>Additional numbers attached? <b>NO</b></p>
<p>Jennifer L. Dean Drinker Biddle &amp; Reath LLP 1500 K Street, N.W., Suite 1100 Washington, D.C. 20005-1209 Ph: 202-842-8800</p>	
<p>6. TOTAL NUMBER OF TITLES: <b>1</b></p> <p>7. TOTAL FEE: <b>\$40</b></p> <p>8. CHARGE FEES TO: <b>DEP. ACCT. NO. 50-0573</b></p> <p>Our Ref: 33195.300</p>	<p>9. The undersigned declares to the best of her knowledge and belief that the information on this cover sheet is true and correct and any copy submitted is a true copy of the original document.</p> <p> Jennifer L. Dean Date: July <u>7</u>, 2004 Page 1 of 15</p>

CH \$40.00 500573 2315474

FILED BY FACSIMILE TO: (703)306-5995  
July 7, 2004

*Brenda J Coffey*



Registre des droits personnels  
et réels mobiliers



E040324583-JEN9G

2004-06-02  
Page 1

DEMANDE DE SERVICE: 04-0324583

ÉTAT CERTIFIÉ DE L'INSCRIPTION NO 04-0324583-0004

DATE DE CERTIFICATION DU REGISTRE:	2004-06-02 15:00	
INSCRIPTION	DATE-HEURE-MINUTE	DATE EXTREME D'EFFET
04-0324583-0004	2004-06-02 14:43	2014-05-26
HYPOTHEQUE CONVENTIONNELLE SANS DÉPOSSESSION		

**PARTIES**

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Titulaire  
THE TORONTO-DOMINION BANK / LA BANQUE TORONTO-DOMINION  
433 CHABANEL OUEST, SUITE 101, Montreal, PQ H2N 2J3

Constituant  
4187237 CANADA INC.  
8125 St-Laurent, Montreal, QC H2P 2M1

**BIENS**

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The universality of all present and future property in stock; ✓  
All fruits and revenues, present and future, emanating from the above  
charged property, negotiable instruments, bills, commercial paper,  
securities, monies, compensation for expropriation given or paid  
following a sale, repurchase, distribution or any other operation  
concerning any property hereby charged in favour of the creditor or  
which has been charged under any other deed.

The universality of all present and future claims, receivables, book ✓  
debts and other movable property related thereto;  
All fruits and revenues, present and future, emanating from the above  
charged property, negotiable instruments, bills, commercial paper,  
securities, monies, compensation for expropriation given or paid  
following a sale, repurchase, distribution or any other operation  
concerning any property hereby charged in favour of the creditor or  
which has been charged under any other deed.

The universality of all present and future securities; ✓  
All fruits and revenues, present and future, emanating from the above  
charged property, negotiable instruments, bills, commercial paper,  
securities, monies, compensation for expropriation given or paid  
following a sale, repurchase, distribution or any other operation  
concerning any property hereby charged in favour of the creditor or  
which has been charged under any other deed.

The universality of all present and future equipment and road ✓  
vehicles;  
All fruits and revenues, present and future, emanating from the above

1, rue Notre-Dame Est, bureau 7.07  
Montréal (Québec) H2Y 1B6  
Montréal et les environs : (514) 864-4949  
Québec et les environs : (418) 546-4949  
Sans frais : 1 800 465-4949  
Télécopieur : (514) 864-4867  
services@rdprm.gouv.qc.ca  
www.rdprm.gouv.qc.ca

PAR MESURE DE SÉCURITÉ, NE PAS ACCEPTER CE DOCUMENT SANS VÉRIFIER LE FILIGRANE  
RDPRM À LA LUMIÈRE ET LA LIGNE ANCROLASER. TOUTE ALIÉNATION DOIT ÊTRE VÉRIFIÉE

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Registre des droits personnels  
et réels mobiliers

RC40324583-JEM96

DEMANDE DE SERVICE: 04-0324583

2004-06-02

Page 2

SUITE DE L'INSCRIPTION 04-0324583-0004  
BIENS (SUITE)

charged property, negotiable instruments, bills, commercial paper, securities, monies, compensation for expropriation given or paid following a sale, repurchase, distribution or any other operation concerning any property hereby charged in favour of the creditor or which has been charged under any other deed.

The universality of all present and future trademarks and intellectual property rights; ✓

All fruits and revenues, present and future, emanating from the above charged property, negotiable instruments, bills, commercial paper, securities, monies, compensation for expropriation given or paid following a sale, repurchase, distribution or any other operation concerning any property hereby charged in favour of the creditor or which has been charged under any other deed.

All monies which are now or may hereafter be from time to time at the credit of the grantor with The Toronto-Dominion Bank at the 433 Chabanel Ouest, Suite 101, Montreal, Qc H2N 2J3 branch of The Toronto-Dominion Bank which monies shall include any amount and interest thereon due to the grantor pursuant to any term deposit instrument of The Toronto-Dominion Bank and any fluctuating credit balances in Canadian account bearing number 5209036 ✓ and/or U.S. account bearing number 7321116 or any replacement number. ✓

All fruits and revenues, present and future, emanating from the above charged property, negotiable instruments, bills, commercial paper, securities, monies, compensation for expropriation given or paid following a sale, repurchase, distribution or any other operation concerning any property hereby charged in favour of the creditor or which has been charged under any other deed.

The universality of all movable property, corporeal or incorporeal, present and future;

All fruits and revenues, present and future, emanating from the above charged property, negotiable instruments, bills, commercial paper, securities, monies, compensation for expropriation given or paid following a sale, repurchase, distribution or any other operation concerning any property hereby charged in favour of the creditor or which has been charged under any other deed.

MENTIONS

SOMME DE L'HYPOTHÈQUE  
\$3,000,000.00

1, rue Notre-Dame Est, bureau 7.07  
Montréal (Québec) H2Y 1R6  
Montréal et les environs : (514) 864-4949  
Québec et les environs : (418) 646-4949  
Sans frais : 1 800 465-4949  
Télécopieur : (514) 864-4867  
services@rdprm.gouv.qc.ca  
www.rdprm.gouv.qc.ca

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PAR MESURE DE SECURITE NE PAS ACCEPTER CE DOCUMENT SANS VERIFIER LE FILIGRAN  
RDPRM À LA LUMIERE ET LA LIGNE MICROLASER TOUTE ALTERATION DOIT ÊTRE VERIFIÉE



Registre des droits personnels  
et réels mobiliers

E040324583-JEM96

2004-06-02  
Page 3

DEMANDE DE SERVICE: 04-0324583

SUITE DE L'INSCRIPTION 04-0324583-0004  
MENTIONS (SUITE)

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RÉFÉRENCE À L'ACTE CONSTITUTIF

FORME DE L'ACTE: Sous seing privé  
DATE: 2004-05-26  
LIEU: MONTREAL, QC

AUTRES MENTIONS:

REF: (C-LARAMEE-9209036 / PQQTD1F6802-1 / 2855795)

AVIS D'ADRESSE

-----  
NO 023594

\*\*\*\*\* FIN DE L'ÉTAT CERTIFIÉ \*\*\*\*\*

*Suzanne Potvin-Plamondon*

Certifié conforme  
Suzanne Potvin-Plamondon  
Officier de la publicité des droits  
personnels et réels mobiliers

Cette inscription a été faite sous le(s) nom(s) :

4187237 CANADA INC.

H2F ZM1

1, rue Notre-Dame Est, bureau 707  
Montréal (Québec) H2Y 1R6  
Montréal et les environs : (514) 864-4949  
Québec et les environs : (418) 646-4949  
Sans frais : 1 800 465-4949  
Télécopieur : (514) 864-1067  
services@rdprm.gouv.qc.ca  
www.rdprm.gouv.qc.ca

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PAR MESURE DE SECURITE, NE PAS ACCEPTER CE DOCUMENT SANS VÉRIFIER LE FILIGRA  
RDPRM A LA LUMIERE ET LA LIGNE MICROLASER. TOUTE ALTERATION DOIT ÊTRE VÉRIFIÉE.



Movable Hypothe

Insert name of Grantor

Granted By  
4187237 CANADA INC.

(hereinafter the "Grantor")

Insert name of Borrower  
even if identical to that  
of Grantor

In favour of The Toronto-Dominion Bank, (hereinafter the "Creditor") in connection with all liabilities of

4187237 CANADA INC.

(hereinafter the "Borrower")

towards the Creditor.

Complete

1. Amount of the Hypothec

The amount for which the Hypothec is granted shall be composed of a sum of  
\*\* TWO MILLION FIVE HUNDRED THOUSAND\*\*

dollars (\$ 2,500,000.00\*\*\*)

and of an additional sum equivalent to 20% of the aforementioned amount, which shall secure all costs, the whole with interest from the date of this agreement at a rate of 25% per annum.

2. Secured Obligations

The Hypothec shall secure payment of all of the Borrower's obligations, direct or indirect, incurred towards the Creditor (whether such obligations result from a loan, line of credit or any other agreement which may result in advances of monie overdraft facilities or protection, issuance of a guarantee, letters of credit, bills of exchange or any other financial advantage whatsoever which may be procured by the Creditor) as well as the Borrower's obligations resulting from a suretyship, endorsement, an interest rate or other treasury instrument swap agreement, or any other engagement, as such obligations are, from time to time, modified, extended or renewed. The Hypothec further secures all obligations falling within the above description which do not yet exist, but which represent future obligations or will result from future agreements with the Creditor.

Any future obligation hereby secured shall be deemed to be one in respect of which the Borrower has once again obligated itself hereunder.

Cross out and initial  
paragraphs which are  
not applicable

3. Hypothec: Description of Charged Property

The Grantor hereby hypothecates in favour of the Creditor the following property (hereinafter the "Charged property") and, with respect to incorporeal or intangible property, property located outside of the Province of Quebec or used in more than one jurisdiction, creates a security interest (the hypothec and the security interest hereinafter collectively referred to as the "Hypothec")

Complete Schedule  
"A", if necessary

Handwritten initials: AS, AS

- 3.1 The following specific property:
  - 3.1.1 all road vehicles and equipment described in Schedule "A" hereof,
  - 3.1.2 all property described in Schedule "A" hereof under the heading "Other Specific Property";

- 3.2 The following universality of property, present and future:
  - 3.2.1 property in stock;
  - 3.2.2 claims, receivables, book debts and other movable property;
  - 3.2.3 securities;
  - 3.2.4 equipment and road vehicles;
  - 3.2.5 trade marks and intellectual property rights;
  - 3.2.6 others property described in Schedule "A" hereof under the heading "Other Universalities".

Each term mentioned in paragraphs 3.1.1 and 3.2.1 to 3.2.5 is defined in Section 4 hereinafter

Complete Schedule  
"A", if necessary

- 3.3 The universality of all movable property, corporeal or incorporeal, present and future, which are not included in what is described in paragraph 3.2.

- 3.4 The following universality of property, present and future:  
all fruits and revenues emanating from the above Charged property, negotiable instruments, bills, commercial paper, securities, monies, compensation for expropriation given or paid following a sale, repurchase distribution or any other operation concerning any property hereby charged in favour of the Creditor or which has been charged under any other deed.

- 2 -

Where, under the terms of any of the above paragraphs, the Hypothec charges a universality of property, a Charged property which shall be acquired, transformed or manufactured after the date of this agreement shall be charged with the Hypothec, whether or not such Charged property has been acquired in replacement of other Charged property which may have been alienated by the Grantor in the ordinary course of business whether or not such property result from a transformation, mixture or combination of any Charged property, and in the case of securities, whether or not they have been issued pursuant to the purchase, redemption, conversion or cancellation or any other transformation of charged securities and without the Creditor being required to register or re-register any notice whatsoever, the object of the Hypothec being a universality of present and future property.

## Definitions

The Terms set out below have the following meaning:

### 4.1 Property in stock

Property in stock possessed by the Grantor or held on its behalf, including raw materials or other materials, goods manufactured or transformed, or in the process of being so, by the Grantor or by others, or property used for packaging, property held by a third party under a lease, a leasing agreement, franchise or license agreement or any other agreement entered into with the Grantor, animals, property evidenced by bill of lading, animals, mineral substances, hydrocarbons and other products of the soil as well as all fruits thereof, from the time of their extraction, or any other corporeal or incorporeal property (hereinafter the "Property in stock").

Property having formed part of the Property in stock which has been alienated by the Grantor in favour of a third person but in respect of which the Grantor has retained title pursuant to a reservation of ownership provision, shall remain charged with the Hypothec until title is transferred; any Property in stock the ownership of which reverts to the Grantor pursuant to a resolution, resiliation or repossession is also subject to the Hypothec.

### 4.2 Claims, book debts and other movable property

#### 4.2.1 Claims, receivables and book debts

All of the Grantor's claims, whatever their cause or nature, whether or not they are certain, liquid and exigible; whether or not evidenced by any title (and whether or not such title is negotiable), bill of exchange or draft; whether litigious or not; whether or not they have been invoiced; whether or not they constitute book debts. Hypothecated claims shall include: i) indemnities payable to the Grantor under any contract of insurance of property, of persons, or of liability insurance, subject to the rights of creditors holding hypothecs on the insured property and ii) the Grantor's rights in the credit balance of accounts held for its benefit either by the Creditor (subject to the Creditor's compensation rights) or by any financial institution or any other person.

#### 4.2.2 Rights of action

The Grantor's rights of action against third persons.

#### 4.2.3 Accessories

The securities, suretyships and accessories to the claims and rights mentioned above and other rights relating thereto (including, without limitation, the rights of the Grantor in its capacity as seller under conditional sale, where the claims are the result of such sale).

#### 4.2.4 Movable Property

All movable property owned by the Grantor and covered by the conditional sale mentioned in paragraph 4.2.3 hereof.

A right or a claim shall not be excluded from the Charged property by reason of the fact that:

(i) the debtor thereof is domiciled outside the Province of Québec or ii) the debtor thereof is an affiliate (as such term is defined in the *Canada Business Corporations Act*) of the Grantor (regardless of the law of the jurisdiction of its incorporation) or, iii) where the Grantor is not a natural person, such right or claim is not related to the operation of the Grantor.

### 4.3 Securities

All securities (including stocks, bonds, obligations, rights, options, warrants, debt securities, investment certificates, units in mutual funds) issued or to be issued in favour of the Grantor by the corporations or partnerships listed in Schedule "A", as well as all those which are delivered by the Grantor to the Creditor from time to time.

### 4.4 Equipment and road vehicles

The equipment, office furniture, tools, machinery, rolling stock (including road vehicles), spare parts and additions.

- 3 -

**4.5 Trade Marks and other Intellectual Property Rights**

Rights in any trade mark, copyright, industrial design, patent, invention, trade secret, know-how, plant breeder's right, topography of integrated circuits and in any other intellectual property right, including, if any, improvements or modifications thereto as well as rights in any action pertaining to the protection, in Canada or abroad, of any such intellectual property rights.

**5. Additional Provisions to the Hypothec on Claims****5.1 Recovery**

The Creditor shall be at liberty to recover all claims and other Charged property referred to in paragraph 3.2 (or 3.1.2 as the case may be), in accordance with what is provided for by law; it may further exercise any rights regarding such property, more particularly, it may grant or refuse any consent which may be required from the Grantor in its capacity as owner of such property, and shall not, in the exercise of such right, be required to obtain the consent of the Grantor or serve the Grantor any notice thereof, nor shall it be under any obligation to establish that the Grantor has refused or neglected to exercise such rights.

**5.2 Authorization to recover**

The Creditor hereby authorizes the Grantor to recover all claims and other Charged property referred to in paragraph 3.2.2 (or 3.1.2, should such be the case). Such authorization may be revoked at any time by the Creditor in accordance with what is provided for by law and the Creditor shall then be at liberty to effect such recovery; the Creditor may further grant delays, take or abandon any securities, transact with debtors of the hypothecated claims, make compromises, grant releases and generally deal at its discretion with matters concerning all Charged property referred to in paragraph 3.2.2 (or 3.1.2, as the case may be) without the intervention or consent of the Grantor. Where in spite of such authorization being revoked, any sums payable under such claims and property is paid to the Grantor, it shall receive same as mandatary of the Creditor and shall return same to the Creditor, upon demand.

**5.3 Assignment of Claims subject to the Financial Administration Act**

The Grantor hereby assigns to the Creditor by way of absolute assignment all its present and future claim which are subject to Sections 67 and 68 of the *Financial Administration Act*, as collateral and continuing guarantee of a secured obligations referred to in paragraph 2 hereof. The Creditor shall, at all times, be at liberty to exercise the formalities required by law in order for such transfer to become enforceable.

Claims assigned pursuant to this paragraph shall be deemed to constitute Charged property for the purpose of paragraphs 7, 8 and 10.

**6. Additional Provisions to the Hypothec on Securities**

The Creditor may, if it deems it useful to protect its rights in and to the hypothecated securities, register itself or nominee on its behalf in the Issuer's appropriate registers, as the holder of such securities; in such case:

- 6.1 all voting rights and any other right attached to such securities shall be exercised by the Creditor or on its behalf;
- 6.2 the Creditor shall collect revenues, dividends and capital distributions and shall be at liberty either to hold them as Charged property or to apply them in reduction of the secured obligations.

The Creditor shall be at liberty to give the Grantor a proxy, revocable at any time, authorizing it to exercise, in whole or in part, all voting rights and any other rights attached to such securities.

**7. Representations and Warranties**

The Grantor hereby represents and warrants that:

- 7.1 a) it operates an enterprise and all Charged property is part of such enterprise, or  
b) it is a corporation;
- 7.2 the head office or domicile of the Grantor is located in Québec;
- 7.3 it has the capacity and the powers necessary to grant the Hypothec and to bind itself as herein provided for execution of this agreement, compliance with its provisions and performance of its covenants shall not entail or result in any violation or default of any other agreement or document to which the Grantor is bound;
- 7.4 it is the unconditional and absolute owner of the Charged property, except for future property, and all such property is free and clear of any priority, hypothec, charge, security, seizure by garnishment, right of

- 4 -

resolution or repossession or of any other rights whatsoever existing in favour of persons other than the Creditor, except as otherwise indicated in Schedule "A" hereof;

Complete Schedule  
"A", if necessary

- 7.5 it uses no business or firm name other than those referred to in Schedule "A" hereof;
- 7.6 where it is a legal person or partnership
- 7.6.1 it is duly incorporated and in good standing under the law of its jurisdiction of incorporation;
- 7.6.2 this agreement has been duly authorized by resolution or by any other necessary action under constating documents, by-laws or otherwise, in order to give it full effect and to render its obligation fully executory; furthermore;
- 7.6.3 this agreement has been executed by duly authorized persons;
- 7.7 there exists no shareholder agreement in connection with securities which are charged under this agreement other than that which the Creditor has acknowledged receipt before or on the date hereof. There exists no restriction in the statutes or other constating documents regarding the assignment or transfer of such securities
- 7.8 the Charged property, other than the property referred to in section 3.2.2 above is located in the premises described in Schedule "B" hereof;
- 7.9 except for property referred to in paragraph 3.2.1 above, it does not, in the ordinary course of its business, own property similar to or of the same nature as the Charged property;
- 7.10 it does not hold title to any claim referred to in paragraph 5.3, other than those indicated in Schedule "A" hereof;

Complete Schedule  
"B", if necessary

Complete Schedule  
"A", if necessary

## 8. Covenants

The Grantor hereby covenants:

- 8.1 to maintain the Charged property free and clear of any conventional or legal hypothec (other than the Hypothec or the charges set out in Schedule "A" hereof), prior claim under Articles 2650 et seq. of the Civil Code of Quebec, charge, security, garnishment, right of resolution or repossession or any other right in favour of person or persons other than the Creditor;
- 8.2 to inform the Creditor in writing:
- of any change whatsoever in its name and business name or in the representations and warrants hereinabove mentioned in Section 7;
  - of the name of any surety which may have guaranteed the payment of claims and other Charged property mentioned in paragraph 3.2.2 (or 3.1.2 as the case may be);
  - of the name of the insurers to the insurance contracts referred to herein;
  - of any security, hypothec or priority created, as well as of any property right retained or assigned, if the purpose of securing claims and other Charged property referred to in paragraph 3.2.2 (or 3.1.2 as the case may be) and, in such cases, to provide the Creditor, upon demand, with satisfactory proof that such security or hypothec has been published in accordance with applicable law in order for its rights of the Creditor to be enforceable against third persons;
- 8.3 to inform the Creditor of any new claim subject to paragraph 5.3;
- 8.4 to provide the Creditor with any information with respect to the Charged property as it may reasonably require in order to determine whether or not the Grantor complies with the provisions hereof. The Grantor shall inform the Creditor of any event, occurrence, or fact which may have an adverse effect on the value of the Charged property or on the Grantor's financial situation;
- 8.5 to keep, with respect to the Charged property, books, vouchers and other documentation, as would a reasonable and diligent administrator, including a list containing the names and addresses of all debtors of the hypothecated claims, and keep them available for the Creditor to examine and obtain copies thereof;
- 8.6 to enable the Creditor to examine, inspect and appraise, at the Grantor's expense, any Charged property, and grant to the Creditor access to all premises where such property may be located;
- 8.7 to perform all acts and execute all deeds and documents (including notices of renewal) necessary to give full effect to the Hypothec and to ensure that it is at all times fully enforceable against third persons;
- 8.8 if the Grantor is not a natural person, not to effect any substantial changes to its corporate structure, composition, nor to merge with any other person, without the prior written consent of the Creditor;



- 5 -

- 8.9 to give the Creditor, from time to time, upon demand, a statement of the value of its Property in situ (calculated at the lower of its acquisition cost or fair market value) and a list of its book debts shown in the reverse order of their due date;
- 8.10 to pay all costs and expenses related to this agreement and to the exercise of all rights resulting in favour of the Creditor from such agreement as well as all costs and expenses incurred to set up the rights of the Creditor against third persons, and all discharge fees (such costs and expenses shall include all fees and expenses, consultants, mandataries or legal counsel retained for any appraisal required in connection with the sale of the enterprise or in case of default, as well as administrative fees and, in such case, a ten per cent (10%) collection charge in connection with the hypothecated claims); to reimburse the Creditor for all costs and expenses incurred by it for the purpose of carrying out the Grantor's obligations or of exercising its rights, all such costs and expenses bearing interest at an annual rate equal to the prime rate of the Creditor which shall be in force from time to time, plus 3%; the Creditor's prime rate shall be the one advertised as its rate of reference for determining the interest rate on loans in Canadian dollars granted in Canada; the obligations arising from this paragraph shall not exceed 25% of the nominal value of the Hypothec;
- 8.11 to insure and keep insured, for the Creditor's benefit, all Charged property against all loss or damage caused by fire, theft and other perils for which, according to the Creditor, an insurance should be taken and for an amount which the Creditor shall deem acceptable. Co-insurance clauses shall be prohibited and a provision to the effect that the insurance policy shall not be annulled unless the insurer has given the Creditor a 30 day prior written notice thereof shall be included in each policy. The Grantor shall, upon execution hereof, give evidence to the Creditor that such insurance policies are in force and that the insurer has been informed of the Creditor's right under such policies and, at least 15 days prior to the termination of any such policy, the Grantor shall give the Creditor evidence of its renewal or replacement. All insurance policies must be subscribed in accordance with the modalities, and with an insurer, approved by the Creditor. All such policies must stipulate that any indemnity shall be payable to the Creditor as a named insured, but the mere reception by the Creditor of any insurance indemnity shall not have the effect of reducing the amount of the obligations secured by the Hypothec, unless the Creditor expressly applies it towards the payment of a specific amount and then, only to the extent of such imputation. If the Grantor fails to comply with the provisions of this paragraph, the Creditor shall be at liberty to contract any insurance policy it may deem necessary and any cost incurred by reason of doing so shall be paid by the Grantor;
- 8.12 not to lease, sell, assign or otherwise dispose of the Charged property, in whole or in part, without the prior written consent of the Creditor, except for property referred to in paragraph 3.2.1 above which may be leased or sold in the ordinary course of business of the Grantor;
- 8.13 to preserve and maintain at all times all machinery, equipment and vehicles hereby charged in good condition and state of repair, normal wear and tear excepted, and immediately repair or replace such property at its own costs, upon damage or destruction thereof;
- 8.14 to protect, use and keep in good condition all Charged property, and carry on its business, so as to preserve the value thereof; at all times, to comply with laws and regulations applicable to the conduct of its enterprise and the possession of the Charged property including laws and regulations relating to the environment;
- 8.15 not to change the use or destination of the Charged property nor the location of such property unless it obtains the written consent of the Creditor;
- 8.16 to insure that its right of ownership in any Charged property held by any third party remain enforceable against third parties, and, accordingly, that such right has been published, if necessary;
- 8.17 if the Charged property is located in premises leased under a lease agreement entered into prior to January 1, 1994 or if such property is subsequently moved into such leased premises, the Grantor shall, concurrently with the execution of this Agreement or immediately after the Charged property is moved into such leased premises give written notice to its lessor of the Hypothec, and shall give the Creditor proof of such notice within three (3) days.

#### **Events of Default**

- 9.1 The Grantor shall be in default hereunder upon the occurrence, without notice or other formality, of any of the following events:
- a) the Grantor fails to perform any obligation secured hereunder at the time when such performance is due;
  - b) any of the representations or warranties made under Section 7 hereof is false in some material respect;
  - c) the Grantor fails to perform any covenant hereunder;
  - d) the Grantor is in default under any contract or agreement with the Creditor.

- 6 -

- e) the Grantor destroys, deteriorates or substantially reduces the value of any Charged property, securities, normal wear and tear excepted;
- f) the Grantor or the Borrower ceases to carry on its enterprise or an important part thereof, become insolvent or becomes subject to any law relating to insolvency, bankruptcy, reorganization or arrangements with creditors or any petition in bankruptcy is taken against the Grantor or the Borrower;
- g) any of the Charged property is subject to any proceeding of seizure or enforcement, or to the exercise of a hypothecary right, by a creditor, sequestrator or any person performing similar functions;
- h) the Grantor or the Borrower loses its legal existence; an order is issued or a resolution is adopted for its winding-up or liquidation.

9.2 Upon the occurrence of any event of default, the Creditor may, in connection with all or part of the obligations secured by the Hypothec, declare that the Borrower has lost the benefit of the term which may have benefited it. It may further cease to make advances, terminate the right of the Borrower to use the credit facilities, the repayment of which is secured by the Hypothec, or terminate the right of the Borrower to make certain forms utilization of such credits; the Creditor may request immediate payment of all obligations, and may exercise its recourses against the Grantor to which it may be entitled in case of default under law or hereunder.

### **Lender's Recourses in Case of Default**

10.1 In case of default, whichever hypothecary rights the Creditor may decide to exercise, the following provisions shall apply:

10.1.1 in order to protect or to realize the value of the Charged property, the Creditor shall be at liberty, at the Grantor's expense, to:

- a) pursue the processing of the Charged property or proceed with any operations to which they are submitted by the Grantor in the ordinary course of its business;
- b) alienate or dispose of any Charged property which may be obsolete, may perish or is like to depreciate rapidly;
- c) use for its benefit all information obtained while exercising its rights;
- d) perform any of the Grantor's obligations;
- e) exercise any right attached to the Charged property;
- f) for the exercise any of its rights, use the premises in which the Grantor's property is located;

10.1.2 the Creditor shall exercise its rights in good faith, so that the obligations secured by the Hypothec be reduced, in a reasonable manner, taking into account all circumstances.

10.1.3 the Creditor may, directly or indirectly, acquire the Charged property.

10.1.4 the Creditor, when exercising its rights, may waive any right of the Grantor, with or without consideration therefor;

10.1.5 the Creditor shall not be bound to make an inventory, to take out insurance or to furnish any other security;

10.1.6 the Creditor shall not be bound to continue to carry on the Grantor's enterprise or to make the Charged property productive, or to maintain such property in operating condition.

10.2 If the Creditor elects to exercise its rights to take in payment and the Grantor or the Borrower requires that the Creditor instead sell the Charged property on which such right is exercised, the Grantor hereby acknowledges that the Creditor shall not be bound to abandon its recourse of taking in payment unless, prior to the expiry of the time period allotted for surrender, the Creditor i) has been granted a security which it considers satisfactory guaranteeing that said Charged property will be sold at a sufficiently high price to enable its claim to be paid in full; ii) has been reimbursed of all costs and expenses incurred therefor, including all fees of consultants or legal counsel, iii) has been advanced the necessary sums for the sale of said Charged property; the Borrower further acknowledges that the Creditor shall have the right to choose the type of sale it may carry out.

10.3 The Grantor will be deemed to have surrendered the Charged property held by the Creditor or on its behalf if the Creditor has not, within the delays permitted by law or by a tribunal to surrender, received written notice from the Grantor to the effect that it is opposed to the exercise of the hypothecary recourse set forth in the present notice.

- 7 -

- 10.4 Where the Creditor sells the Charged property itself, it shall not be required to obtain any prior assessment by third party.
- 10.5 The Creditor may choose to sell the Charged property with legal warranty given by the Grantor or with complete or partial exclusion of such warranty.

### General Provisions

- 11.1 The Hypothec is hereby created in addition to and not in substitution or replacement for any other hypothec security held by the Creditor; it does not affect the Creditor's right of set-off.
- 11.2 The Creditor shall be at liberty to invest any monies or instruments received or held by it in pursuance of this agreement or deposit them in a non-interest bearing account without having to comply with any legal provision concerning the investment of property of others:
- 11.3 The Creditor shall be at liberty to impute any amounts collected in the exercise of its rights or received by prior to or after any event of default as it may choose, without having to comply with legal provision concerning the imputation of payment;
- 11.4 The Hypothec shall be a continuing security which shall remain in full force and effect despite the repayment from time to time, of the whole or of any part of the obligations secured hereunder; it shall remain in full force until the execution of a final release by the Creditor.
- 11.5 The mere lapse of time provided for the Grantor to perform its obligations or the arrival of the term shall automatically create a default, without any obligation for the Creditor to serve any notice or prior notice to the Grantor.
- 11.6 The exercise by the Creditor of any of its rights shall not preclude it from exercising any other right under this agreement or the law; the rights of the Creditor shall be cumulative and not alternative. The non-exercise by the Creditor of one of its rights shall not constitute a waiver of any subsequent exercise of such right. The Creditor shall be at liberty to exercise its rights under this agreement without any obligation to exercise any right against any other person liable for payment of the obligations secured hereunder and without having to realize any other security which secures such obligations.
- 11.7 The Creditor is hereby designated as the irrevocable mandatary of the Grantor with full powers of substitution for the purpose of paragraph 11.8 or for the purpose of carrying out any and all acts and execute any and all deeds, proxies or other documents which it may deem useful in order to exercise its rights or which the Grantor neglects or refuses to execute or to carry out.
- 11.8 The Creditor shall be at liberty to perform any of the Grantor's liabilities under this agreement. It may then immediately request payment of any expense incurred in doing so, including interest at the rate provided for in paragraph 8.10 above.
- 11.9 The Creditor shall be at liberty to appoint any person or persons for the purpose of the exercising of its rights or the performance of any covenant resulting from this agreement or law; in such case, the Creditor shall supply such person with any information relating to the Grantor or the Charged property.
- 11.10 The Creditor shall not be liable for material injuries or damages resulting from its fault, unless such fault is gross or intentional;
- 11.11 The rights hereby conferred upon the Creditor shall benefit all its successors, including any entity resulting from the merger of the Creditor with any other person or persons.
- 11.12 Any notice to the Grantor shall be delivered to its address mentioned hereunder or to any other address of which the Creditor has been given written notice; any notice to the Creditor shall be delivered to its branch office, the address of which is set out below, or to any other address of which the Grantor has been given written notice.
- 11.13 This agreement shall be governed by the laws of the Province of Québec.

**12. English Language**

The parties hereto confirm that the present agreement has been drawn up in the English language at their request. Les parties aux présentes confirment que la présente convention a été rédigée en langue anglaise à leur demande.

SIGNED on this 14<sup>th</sup> day of 26 2004.

Grantor:  
4187237 CANADA INC.

per: 

Witness \_\_\_\_\_

per: \_\_\_\_\_

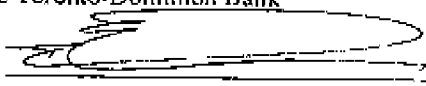
Grantor's address:  
(for any notice or correspondence)

8125 ST-LAURENT  
MONTREAL, QUEBEC

Postal code: H2P 2M1

Date of Birth, in case of a natural person: \_\_\_\_\_

The Toronto-Dominion Bank

per: 

Witness \_\_\_\_\_

Affix stamp identifying the address of the Branch Office

The Borrower hereby recognizes that any future obligation hereby secured shall be deemed to be one in respect of which, he has once again obligated itself hereunder.

SIGNED on this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

Borrower:

per: \_\_\_\_\_

per: \_\_\_\_\_

Witness \_\_\_\_\_

**Resolution  
(Movable hypothec)**

4187237 CANADA INC.

\_\_\_\_\_  
(the "corporation")

Be It Resolved:

1. THAT the corporation be and it is hereby authorized to hypothecate in favour of The Toronto-Dominion Bank the property mentioned in paragraph 3 of the draft deed of moveable hypothec submitted to the directors of the corporation, which draft is hereby approved.
2. THAT the hypothec be granted for a sum of \_\_\_\_\_  
**\*\*\*TWO MILLION FIVE HUNDRED THOUSAND\*\***  
\_\_\_\_\_ dollars (**\$ 2,500,000.00\*\***)  
and of an additional sum equivalent to 20% of the aforementioned amount, the whole with interest at the rate of 25% per annum.
3. THAT the hypothec be granted as security for all obligations, direct or indirect of the borrower named in said deed, present or future.
4. THAT an officer or director of the corporation be and he is hereby authorized to execute for and in the name of the corporation a deed of movable hypothec substantially in the form and tenor of the draft submitted to the directors with all modifications which he may deem necessary or useful, at its sole discretion.

\*\*\*\*\*

I the undersigned hereby certify that the foregoing resolution has been duly adopted by the Board of directors of the corporation and that it is, as of this date, in full force and effect.

SIGNED this 26 day of MAY 2004.

\_\_\_\_\_  
Secretary

**SCHEDULE "A"**

**A.1 Equipment and Road Vehicles (par. 3.1.1)**

NOT APPLICABLE

**A.2 Other specific property (par. 3.1.2)**

NOT APPLICABLE

**A.3 Other universalities (par. 3.2.6)**

ALL MONIES WHICH ARE NOW OR MAY HEREAFTER BE FROM TIME TO TIME AT THE CREDIT OF THE GRANTOR WITH THE TORONTO-DOMINION BANK AT THE 433 CHABANEL WEST, SUITE 101, MONTREAL, QUEBEC, H2N 2J3 BRANCH OF THE TORONTO-DOMINION BANK WHICH MONIES SHALL INCLUDE ANY AMOUNT AND INTEREST THEREON DUE TO THE GRANTOR PURSUANT TO ANY TERM DEPOSIT INSTRUMENT OF THE TORONTO-DOMINION BANK AND ANY FLUCTUATING CREDIT BALANCES IN CANADIAN ACCOUNT BEARING NUMBER 4280-5209036 AND/OR U.S. ACCOUNT BEARING NUMBER 4280-7321116 OR ANY OTHER REPLACEMENT NUMBER.

**A.4 Securities (par. 4.3)**

NOT APPLICABLE

**A.5 Existing Charges (par. 7.4)**

NOT APPLICABLE

**A.6 Business or firm names (par. 7.5)**

NOT APPLICABLE

**A.7 Claims, receivables (par. 7.10)**

NOT APPLICABLE

Initials  
[ ] [ ]  
*ARS*

**Schedule "B"**  
**(par 7.8)**

**Location of Charged property**

**1. Property located in Québec**

**Description** **Address**

PROPERTY DESCRIBED IN PARAGRAPHS  
3.2.1., 3.2.2., 3.2.3., 3.2.4., 3.2.5., 3.2.6. & 3.3.

8125 ST-LAURENT  
MONTREAL, QUÉBEC  
H2P 2M1

**2. Property located outside of Québec**

**Description** **Address**

NOT APPLICABLE

**3. Property intended for use in more than one province or state.**

**Description** **Provinces or States**

NOT APPLICABLE

*AS*

initials