

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	SECURITY INTEREST

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Powerway, Inc.		02/24/2006	CORPORATION: INDIANA

RECEIVING PARTY DATA

Name:	Bank of America, N.A.
Street Address:	100 North Tryon Street
City:	Charlotte
State/Country:	NORTH CAROLINA
Postal Code:	28255
Entity Type:	National Chartered Bank:

PROPERTY NUMBERS Total: 11

Property Type	Number	Word Mark
Registration Number:	1769894	POWERWAY
Registration Number:	2869967	POWERWAY
Registration Number:	2767390	POWERWAY
Registration Number:	2623742	POWERWAY
Registration Number:	2653501	POWERWAY
Registration Number:	2627574	POWERWAY.COM
Registration Number:	2429115	POWERWAY ASSESSOR
Registration Number:	2365792	POWERWAY DOCUMENT MANAGER
Registration Number:	2365793	POWERWAY INSTRUCTION WRITER
Registration Number:	2367676	POWERWAY POLICY WRITER
Registration Number:	2367672	POWERWAY PROCEDURE WRITER

CORRESPONDENCE DATA

Fax Number: (312)706-9153
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.

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**TRADEMARK
 REEL: 003263 FRAME: 0720**

OP \$290.00 1769894

Phone: 3127018601
Email: zbeal@mayerbrownrowe.com
Correspondent Name: Deborah Schavey Ruff
Address Line 1: P.O. Box 2828
Address Line 4: Chicago, ILLINOIS 606902828

ATTORNEY DOCKET NUMBER:	05015733
NAME OF SUBMITTER:	Deborah Schavey Ruff
Signature:	/deborahschaveyruff/
Date:	03/08/2006

Total Attachments: 11

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THIS AGREEMENT AND ALL OF THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO ARE SUBJECT IN ALL RESPECTS TO THE RIGHTS OF THE HOLDERS OF, AND THE TERMS AND PROVISIONS OF, SENIOR DEBT (AS DEFINED IN THAT CERTAIN THIRD AMENDMENT TO SETTLEMENT AGREEMENT), INCLUDING SUCH RIGHTS AS SET FORTH IN ANY SUBORDINATION AGREEMENT ENTERED INTO BY THE PARTIES HERETO AND ANY HOLDER OF SENIOR DEBT.

TRADEMARK SECURITY AGREEMENT

This TRADEMARK SECURITY AGREEMENT (this "Agreement") is made on the 24th day of February, 2006 between **Powerway, Inc.**, an Indiana corporation having a mailing address at 6919 Hillside Court, Indianapolis, Indiana 46250 (the "Debtor"), and **Bank of America, N.A.**,¹ a nationally chartered bank having its principal place of business at 100 North Tryon Street, Charlotte, North Carolina 28255 ("Bank of America" and, together with its successors and assigns, the "Secured Party").

Recitals

A. Debtor and Secured Party have entered into that certain Amendment Three to Settlement Agreement dated as of February 24th, 2006 (the "Third Amendment"), relating to that certain Settlement Agreement dated May 3, 2002 (as amended, the "Settlement Agreement") and that certain Master Lease Agreement dated June 29, 2000 by and between Powerway, as Lessee, and Bank of America, as Lessor by assignment (as amended, the "Lease").

B. In order to induce the transactions evidenced by the Third Amendment, including modifications to the Lease based on certain existing defaults, Debtor has agreed to assign to Secured Party certain trademark rights.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained in this Agreement, the parties hereto agree as follows:

1. To secure the complete and timely satisfaction of all obligations of Debtor under the Lease and the Settlement Agreement (the "Obligations"), Debtor hereby grants, assigns and conveys to Secured Party a security interest in the entire right, title and interest of the Debtor in and to the trademark applications and trademarks listed in Schedule A hereto (as the same may be amended pursuant hereto from time to time), including without limitation all renewals thereof, all proceeds of infringement suits, the right to sue for past, present and future infringements and all rights corresponding thereto throughout the world (collectively referred to herein as the "Trademarks"), and the goodwill of the business to which each of the Trademarks relates.

2. Debtor represents and warrants that, except as set forth on Schedule B:

¹ For itself and as agent for Lehman Commercial Paper Inc. pursuant to that certain Amended and Restated Transfer and Administration Agreement dated August 16, 1999

- (a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable;
- (b) To the best of Debtor's knowledge, each of the Trademarks is valid and enforceable;
- (c) No claim has been made that the use of any of the Trademarks does or may violate the rights of any third person;
- (d) Except for Permitted Liens (as defined in the Security Agreement executed in connection herewith), Debtor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, free and clear of any liens, charges and encumbrances, including without limitation pledges, assignments, licenses, registered user agreements and covenants by Debtor not to sue third persons;
- (e) Debtor has the unqualified right to enter into this Agreement and perform its obligations hereunder;
- (f) Debtor has used, and will continue to use for the duration of this Agreement, proper statutory notice in connection with its use of the Trademarks; and
- (g) Debtor has used, and will continue to use for the duration of this Agreement, consistent standards of quality in its manufacture of products sold under the Trademarks.

3. Debtor hereby grants to Secured Party and its employees and agents the right to visit Debtor's plants and facilities which manufacture, inspect or store products sold under any of the Trademarks, and to inspect the products and quality control records relating thereto at reasonable times during regular business hours. Debtor shall do any and all acts required by Secured Party to ensure Debtor's compliance with Section 2(g).

4. Except for any agreement executed in connection with the Senior Debt, Debtor agrees that, until all of the Obligations shall have been satisfied in full, it will not enter into any agreement which is inconsistent with Debtor's obligations under this Agreement, without Secured Party's prior written consent.

5. If, before the Obligations shall have been satisfied in full, Debtor shall obtain rights to any new trademarks, the provisions of Section 1 shall automatically apply thereto and Debtor shall give Secured Party prompt written notice thereof.

6. Debtor authorizes Secured Party to modify this Agreement by amending Schedule A to include any future trademarks and trademark applications covered by Sections 1 and 5 hereof.

Unless and until there shall have occurred a "default" under Section 13 of the Lease, Secured Party hereby grants to Debtor the exclusive, nontransferable right and license to use the Trademarks on and in connection with products sold by Debtor, for Debtor's own benefit and

account and for none other. Debtor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Debtor in this Section 7, without the prior written consent of Secured Party, except for the granting of licenses in the ordinary course of business to resellers or other third parties in connection with (a) marketing Debtor's products or services or (b) advertising or otherwise publicizing use of Debtor's products or services.

7. Subject to the rights of the holders of, and the terms and provisions of, the Senior Debt (as defined in the Third Amendment), including such rights as set forth in any subordination agreement entered into by the parties hereto and any holder of Senior Debt, if a "default" under Section 13 of the Lease shall have occurred and be continuing, Debtor's license under the Trademarks, as set forth in Section 7, shall terminate forthwith, and Secured Party shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be located and, without limiting the generality of the foregoing, Secured Party may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Debtor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in Indiana, or elsewhere, all or from time to time any of the Trademarks, or any interest which Debtor may have therein, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds toward payment of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to Debtor. Notice of any sale or other disposition of the Trademarks shall be given to Debtor at least five (5) days before the time of any intended public or private sale or other disposition of the Trademarks is to be made, which Debtor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, Secured Party may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of Debtor, which right is hereby waived and released.

8. At such time as Debtor shall completely satisfy all of the Obligations, this Agreement shall terminate and Secured Party shall execute and deliver to Debtor all deeds, assignments and other instruments as may be necessary or proper to re-vest in Debtor full title to the Trademarks, subject to any disposition thereof which may have been made by Secured Party pursuant hereto.

9. Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorney's fees and legal expenses incurred by Secured Party in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks, shall be borne and paid by Debtor on demand by Secured Party and until so paid shall be added to the principal amount of the Obligations.

10. Debtor shall have the duty, through counsel acceptable to Secured Party, to prosecute diligently any trademark applications of the Trademarks pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full, to make federal application on registrable but unregistered Trademarks, to file and prosecute opposition and cancellation proceedings and to do any and all acts which are necessary or desirable to preserve and maintain all rights in the Trademarks. Any expenses incurred in connection with the Trademarks shall be borne by Debtor. Debtor shall not abandon any Trademark without the consent of Secured Party, which consent shall not be unreasonably withheld.

11. Debtor shall have the right, with the prior written consent of Secured Party, which will not be unreasonably withheld, to bring any opposition proceedings, cancellation proceedings or lawsuit in its own name to enforce or protect the Trademarks, in which event Secured Party may, if necessary, be joined as a nominal party to such suit if Secured Party shall have been satisfied that it is not thereby incurring any risk of liability because of such joinder. Debtor shall promptly, upon demand, reimburse and indemnify Secured Party for all damages, costs and expenses, including attorney's fees, incurred by Secured Party in the fulfillment of the provisions of this Section 12.

12. In the event of the occurrence and during the continuance of any "default" under Section 13 of the Lease, Debtor hereby authorizes and empowers Secured Party to make, constitute and appoint any officer or agent of Secured Party as Secured Party may select, in its exclusive discretion, as Debtor's true and lawful attorney-in-fact, with the power to endorse Debtor's name on all applications, documents, papers and instruments necessary for Secured Party to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to anyone else, or necessary for Secured Party to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else. Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Agreement.

13. If Debtor fails to comply with any of its obligations hereunder, Secured Party may do so in Debtor's name or in Secured Party's name, but at Debtor's expense, and Debtor hereby agrees to reimburse Secured Party in full for all expenses, including reasonable attorney's fees, incurred by Secured Party in protecting, defending and maintaining the Trademarks.

14. No course of dealing between Debtor and Secured Party, nor any failure to exercise, nor any delay in exercising, on the part of Secured Party, any right, power or privilege hereunder or under the Lease shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

15. All of Secured Party's rights and remedies with respect to the Trademarks, whether established hereby or by the Lease, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

16. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such

jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

17. This Agreement is subject to modification only by a writing signed by the parties, except as provided in Section 6.

18. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

19. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Indiana.

This Agreement is subject in all respects to, and the Obligations shall be subordinate to, the rights of the holders of, and the terms and provisions of, the Senior Debt (as defined in the Third Amendment), including such rights as set forth in any subordination agreement entered into by the parties hereto and any holder of Senior Debt; **provided, however**, that nothing herein or in any such agreement shall be construed to subordinate the Secured Party's rights or interests in and to the Leased Equipment or to any New Shares (each as defined in the Third Amendment) to the rights or interests of the holders of Senior Debt, if any, in and to such Leased Equipment or New Shares.

[Signatures Follow]

SIGNATURE PAGE TO TRADEMARK SECURITY AGREEMENT

The parties hereby execute this Trademark Security Agreement as of the date first set forth above.

DEBTOR:

POWERWAY, INC.

By: 
Dean Burger, Chief Financial Officer

SECURED PARTY:

BANK OF AMERICA, N.A.

BY: PORTFOLIO FINANCIAL
SERVICING COMPANY, as Agent for
BANK OF AMERICA, N.A.

By: _____
Milt Kirby, Vice President

SIGNATURE PAGE TO TRADEMARK SECURITY AGREEMENT

The parties hereby execute this Trademark Security Agreement as of the date first set forth above.

DEBTOR:

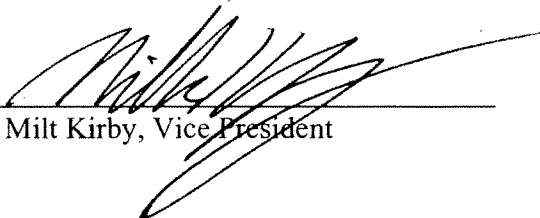
POWERWAY, INC.

By: _____
Dean Burger, Chief Financial Officer

SECURED PARTY:


BANK OF AMERICA, N.A.

BY: PORTFOLIO FINANCIAL
SERVICING COMPANY, as Agent for
BANK OF AMERICA, N.A.

By:  _____
Milt Kirby, Vice President

SCHEDULE A
Powerway Trademarks

Mark and Type	Jurisdiction	Serial No. / Registration No.	Filing Date/ Registration Date	Trademark Owner	Goods/Services Descript
POWERWAY (Stylized) POWERWAY	U.S. Federal	1,769,894	5/11/1993	Powerway, Inc.	<u>Class 9</u> : computer software manufacturing applications, instruction manuals therefor
POWERWAY (Stylized) POWERWAY	U.S. Federal	2,869,967	8/3/2004	Powerway, Inc.	<u>Class 9</u> : computer software use in engineering, product quality and manufacturing in field of supply chain collaboration, and printed manuals therefor, sold as a t
POWERWAY	U.S. Federal	2,767,390	9/23/2003	Powerway, Inc.	<u>Class 9</u> : computer software use in engineering, product quality and manufacturing in field of supply chain collaboration, and printed manuals therefor, sold as a t

POWERWAY	U.S. Federal	2,623,742	9/24/2002	Powerway, Inc.	<u>Class 42</u> : computer software installation, configuration, support, maintenance and deployment services in the field of supply chain management engineering, product quality manufacturing; process management services for collaboration of supply chain engineering, product quality manufacturing processes over global computer network
POWERWAY <hr/>  <hr/>	U.S. Federal	2,653,501	11/26/2002	Powerway, Inc.	<u>Class 9</u> : computer software use in engineering, product quality and manufacturing in field of supply chain collaboration, and printed manuals therefor, sold as a unit and <u>Class 42</u> : computer software installation, configuration, support, maintenance and deployment services in the field of supply chain management engineering, product quality manufacturing; process management services for collaboration of supply chain engineering, product quality manufacturing processes over global computer network

POWERWAY.COM	U.S. Federal	2,627,574	10/1/2002	Powerway, Inc.	Class 42: computer software installation, configuration, support, maintenance and deployment services in the field of supply chain management engineering, product quality manufacturing; process management services for collaboration of supply chain engineering, product quality manufacturing processes over global computer network
POWERWAY ASSESSOR	U.S. Federal	2,429,115	2/20/2001	Powerway, Inc.	Class 9: computer software quality compliance applications, namely, measuring compliance and producing reports for manufacturing operations
POWERWAY DOCUMENT MANAGER	U.S. Federal	2,365,792	7/11/2000	Powerway, Inc.	Class 9: computer software document control applications, namely, management and information regarding documents, restricting document access, establishing document change procedures
POWERWAY INSTRUCTION WRITER	U.S. Federal	2,365,793	7/11/2000	Powerway, Inc.	Class 9: computer word processing and layout software for document creation
POWERWAY POLICY WRITER	U.S. Federal	2,367,676	7/18/2000	Powerway, Inc.	Class 9: computer word processing and layout software for document creation applications
POWERWAY PROCEDURE WRITER	U.S. Federal	2,367,672	7/18/2000	Powerway, Inc.	Class 9: computer word processing and layout software for document creation applications for use in manufacturing operations

SCHEDULE B

EXCEPTIONS TO REPRESENTATIONS AND WARRANTIES

Section	
2(d)	Certain resellers and other third parties have been granted license rights to use the Trademarks in connection with (1) marketing Debtor's products or services or (2) publicizing use by such entity of Debtor's products or services.