



**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

Enter the total number of pages of the attached conveyance document including any attachments. #

**Application Number(s) or Patent Number(s)**

Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

**Patent Application Number(s)**

**Patent Number(s)**

|                      |                      |                      |  |                      |                      |
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| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="5,174,804"/> | <input type="text"/> | <input type="text"/> |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="5,238,480"/> | <input type="text"/> | <input type="text"/> |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="5,237,936"/> | <input type="text"/> | <input type="text"/> |

If this document is being filed together with a new Patent Application, enter the date the patent application was signed by the first named executing inventor.

Month Day Year

**Patent Cooperation Treaty (PCT)**

Enter PCT application number only if a U.S. Application Number has not been assigned.

PCT  PCT  PCT   
PCT  PCT  PCT

**Number of Properties**

Enter the total number of properties involved. #

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment:  
Deposit Account

Enclosed  Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number: #

Authorization to charge additional fees: Yes  No

**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. Charges to deposit account are authorized, as indicated herein.

Penny A. Sisk

Name of Person Signing

Signature

May, 1998

Date

**PATENT SECURITY AGREEMENT**

THIS PATENT SECURITY AGREEMENT (this "Agreement") is made this 29<sup>th</sup> day of May, 1998, between **FLEET CAPITAL CORPORATION**, a Rhode Island corporation having an office at 300 Galleria Parkway, Suite 800, Atlanta, Georgia 30339 in its capacity as collateral agent (together with its successors in such capacity, "Collateral Agent"), for itself, the Administrative Agent (as defined herein) and Lenders (as defined herein), and **VIGORO ACQUISITION CORP.**, a Delaware corporation having its principal place of business at 201 West Fourth Street, Sylacauga, Alabama 35150 (the "Company").

**RECITALS:**

The Company desires to obtain loans from such financial institutions ("Lenders") as are parties from time to time to that certain Credit Agreement dated the date hereof, among the Company, the other borrowers noted therein, Collateral Agent, **WACHOVIA BANK, N.A.**, a national banking association, as administrative agent for the Lenders (together with its successors in such capacity, "Administrative Agent"), and Lenders (as at any time amended, the "Credit Agreement").

Lenders are willing to make loans to the Company from time to time, pursuant to the terms of the Credit Agreement, provided the Company executes this Agreement.

The Company has contemporaneously herewith, pursuant to the Borrower Security Agreement, granted to Collateral Agent, for its benefit and the benefit of the Administrative Agent and the Lenders, a lien upon and security interest in all or substantially all of the Company's assets, including, without limitation, all of the Company's Patents (as defined herein).

NOW, THEREFORE, for Ten Dollars (\$10.00) and other valuable consideration, and in consideration of the premises, the Company hereby agrees with Collateral Agent as follows:

1. All capitalized terms used herein, including those used in the Recitals hereto, unless otherwise defined shall have the meanings ascribed to them in the Credit Agreement.

2. To secure the prompt payment and performance of the Obligations, the Company hereby grants, assigns and pledges to Collateral Agent, for its benefit and the benefit of the Administrative Agent and Lenders, a continuing security interest in and Lien upon all of the following property of the Company, whether now existing or hereafter acquired, the entire right, title and interest of the Company in and to the patent applications and patents listed in Exhibit A attached hereto, including, without limitation, all proceeds thereof (such as, by way of example,

license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world, and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof (all of the foregoing being herein collectively referred to as the "Patents").

3. The Company covenants with and warrants to Collateral Agent, Administrative Agent and Lenders that:

(a) The Patents are, to the best of its knowledge, subsisting and have not been adjudged invalid or unenforceable, in whole or in part;

(b) Except as disclosed in Exhibit A, the Company is now and shall continue to be the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Patents, free and clear of any Liens other than Permitted Liens; and

(c) The Company has the unqualified right to enter into this Agreement and perform its terms and, to the extent it deems reasonably necessary, has entered and will enter into written agreements with each of its present and future employees, agents and consultants which will enable it to comply with the covenants herein contained.

4. Until all of the Obligations have been satisfied in full and the Credit Agreement has been terminated, the Company shall not enter into any license agreement relating to any of the Patents with any Person having any interest in any of the Patents except non-exclusive licenses to customers of the Company in the regular and ordinary course of the Company's business as presently conducted and for reasonable and customary compensation, and shall not become a party to any agreement with any Person that is inconsistent with the Company's obligations under this Agreement.

5. If, before the Obligations shall have been satisfied in full, the Company shall obtain rights to any new patentable inventions, or become entitled to the benefit of any patent application or patent for any reissue, division, continuation, renewal, extension or continuation-in-part of any Patent or any improvement on any Patent, the provisions of paragraph 1 shall automatically apply thereto and the Company shall give to Collateral Agent prompt notice thereof in writing.

6. The Company authorizes Collateral Agent to modify this Agreement by amending Exhibit A to include any future patents and patent applications which are Patents under paragraph 1 or paragraph 4 hereof.

7. The Company hereby grants to Collateral Agent, Administrative Agent and Lenders and their respective employees and agents the right upon prior notice to the Company, and subject only to any obligations of confidentiality to which the Company, its

employees and agents are then subject with respect thereto, to visit the Company's plants and facilities which manufacture, inspect or store products sold under any of the Patents and to inspect the products and quality control records relating thereto at reasonable times during regular business hours.

8. If any Event of Default shall have occurred and be continuing, Collateral Agent shall have, in addition to all other rights and remedies given it by this Agreement, all rights and remedies under Applicable Law and the rights and remedies of a secured party under the UCC. Without limiting the generality of the foregoing, Collateral Agent may immediately, for its benefit and the benefit of Administrative Agent and Lenders, without demand of performance and without other notice (except as described in the next sentence, if required by Applicable Law), or demand whatsoever to the Company, each of which the Company hereby expressly waives, and without advertisement (except as otherwise provided by applicable law), collect directly any payments due the Company in respect of the Patents, or sell at public or private sale or otherwise realize upon the whole or from time to time any of the Patents, or any interest which the Company may have therein. After deducting from the proceeds of sale or other disposition of the Patents all costs and expenses incurred by Collateral Agent, Administrative Agent or Lenders in enforcing their respective rights hereunder, (including, without limitation, all attorneys' fees), Collateral Agent shall apply the residue of such proceeds toward the payment of the Obligations for its benefit and the benefit of Administrative Agent and Lenders in accordance with the terms of the Credit Agreement. Notice of any sale or other disposition of the Patents shall be given to the Company at least seven (7) days before the time of any intended public or private sale or other disposition of the Patents is to be made, which the Company hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, Collateral Agent may, to the extent permissible under applicable law, purchase the whole or any part of the Patents sold, free from any right of redemption on the part of the Company, which right is hereby waived and released.

9. The Company hereby makes, constitutes and appoints Collateral Agent and any officer or agent of Collateral Agent as Collateral Agent may select as the Company's true and lawful attorney-in-fact, with full power to do any or all of the following if an Event of Default shall occur and be continuing: to endorse the Company's name on all applications, documents, papers and instruments necessary for Collateral Agent to continue the registration of or to use the Patents, or to grant or issue any exclusive or nonexclusive license under the Patents to any other Person, or to assign, pledge, convey or otherwise transfer title in or dispose of the Patents to any other Person. The Company hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney, being coupled with an interest, shall be irrevocable until all of the Obligations shall have been satisfied in full and the Credit Agreement shall have been terminated.

10. At such time as all of the Obligations shall have been satisfied finally and in full and the Commitments under the Credit Agreement shall have been terminated, Collateral Agent shall execute and deliver to the Company, without representation, warranty or recourse and at the Company's expense, all releases and other instruments necessary to terminate Collateral Agent's security interest in the Patents, subject to any disposition thereof which may have been made by Collateral Agent pursuant to the terms of this Agreement, the Credit Agreement or any other Credit Document.

11. Any and all fees, costs and expenses, of whatever kind or nature, (including, without limitation, reasonable attorneys' fees and legal expenses) incurred by Collateral Agent, Administrative Agent or any Lender 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, without limitation, all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees or encumbrances, or otherwise, in protecting, maintaining and preserving the Patents or in defending or prosecuting any actions or proceedings arising out of or related to the Patents, shall be borne and paid by the Company (it being the intent of the Company and Collateral Agent that the Company shall be responsible for the payment of all sums, fees, costs and expenses, including, without limitation, all maintenance fees payable with respect to the Patents) or, if paid by Collateral Agent in its sole discretion, shall be paid by the Company to Collateral Agent **on demand** by Collateral Agent and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the rate per annum in effect from time to time under the Credit Agreement.

12. The Company shall have the duty, consistent with the Company's past practice, through counsel reasonably acceptable to Lender, to prosecute diligently any patent application of the Patents pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full and the Credit Agreement terminated, to make application on unpatented but patentable inventions and to preserve and maintain all rights in patent applications of the Patents. Any expenses incurred in connection with such an application shall be borne by the Company. The Company shall not abandon any pending patent application or patent, without the prior written consent of Collateral Agent.

13. (a) Collateral Agent shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Patents and any license hereunder, in which event the Company shall at the request of Collateral Agent do any and all lawful acts and execute any and all proper documents required by Collateral Agent in aid of such enforcement and the Company shall promptly, upon demand, reimburse and indemnify Lender for all costs and expenses incurred by Collateral Agent in the exercise of its rights under this Paragraph 13(a); and

(b) Collateral Agent shall have the right, but shall in no way be obligated, to defend any suit or counterclaim in its own name in order to defend the Patents and any license hereunder, in which event the Company shall, at the request of Collateral Agent, do any and all lawful acts and execute any and all proper documents required by Collateral Agent in aid of such defense and the Company shall promptly, upon demand, reimburse and indemnify Collateral Agent for all costs and expenses incurred by Collateral Agent in the exercise of its rights under this Paragraph 13(b).

14. No course of dealing between the Company and Collateral Agent, nor any failure to exercise, nor any delay in exercising, on the part of Collateral Agent, any right, power or privilege hereunder or under the Credit Agreement 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 future exercise thereof or the exercise of any other right, power or privilege.

15. All of Collateral Agent's rights and remedies with respect to the Patents, whether established hereby or by the Credit Agreement, 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, the same shall be deemed severed herefrom and shall not in any manner affect such clause or provisions in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

17. This Agreement is subject to the terms and conditions of all licenses for the Patents existing as of the effective date of this Agreement and set forth on Exhibit B attached hereto.

18. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph 5.

19. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and the permitted assigns of the parties. The Company shall not assign its rights or delegate its rights or assign its duties hereunder without the prior written consent of Collateral Agent.

20. The Company waives notice of Collateral Agent's acceptance hereof.

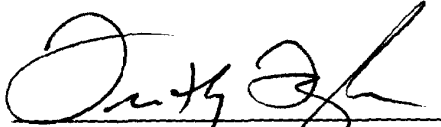
21. THIS AGREEMENT HAS BEEN NEGOTIATED, EXECUTED AND DELIVERED AT AND SHALL BE DEEMED TO HAVE BEEN MADE IN ATLANTA, GEORGIA. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF GEORGIA.

22. THE COMPANY AND COLLATERAL AGENT EACH WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM OF

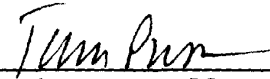
ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE COLLATERAL.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in Atlanta, Georgia, on the day and year first written above.

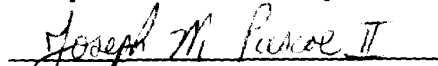
ATTEST:

  
\_\_\_\_\_  
Timothy Taylor,  
Secretary

VIGORO ACQUISITION CORP.  
("Company")

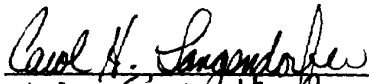
By:   
\_\_\_\_\_  
Taylor Pursell,  
President and Chief  
Executive Officer

[CORPORATE SEAL]

  
\_\_\_\_\_  
Witness

Accepted in Atlanta, Georgia:

FLEET CAPITAL CORPORATION, as  
Collateral Agent  
("Collateral Agent")

By:   
\_\_\_\_\_  
Title: Senior Vice President



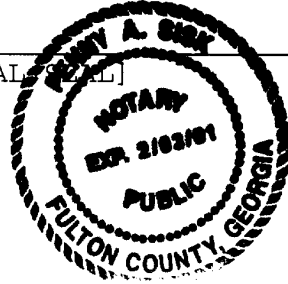
STATE OF GEORGIA           §  
  §  
COUNTY OF FULTON         §

BEFORE ME, the undersigned authority, on this day personally appeared Taylor Pursell, President and Chief Executive Officer of Vigoro Acquisition Corp., to me known to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 29<sup>th</sup> day of May, 1998.

Penny A. Sisk  
Notary Public  
My Commission Expires:

[NOTARIAL SEAL]



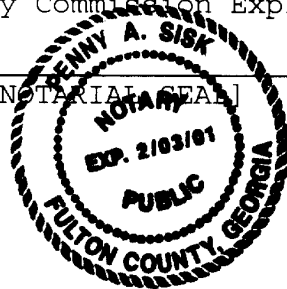
STATE OF GEORGIA           §  
  §  
COUNTY OF FULTON         §

BEFORE ME, the undersigned authority, on this day personally appeared Carol H. Landerborfer of Fleet Capital Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 28<sup>th</sup> day of May, 1998.

Penny A. Sisk  
Notary Public  
My Commission Expires:

[NOTARIAL SEAL]



# EXHIBIT A

**PATENT SCHEDULE  
VIGORO ACQUISITION CORP.**

| <b>File No.</b> | <b>Patent Number</b> | <b>Country</b> | <b>Title</b>   | <b>Status</b>    | <b>Maintenance/<br/>Annuity Fee Due</b>        |
|-----------------|----------------------|----------------|--|------------------|--|
| 4               | 5,174,804            | United States  | Fertilizer/Pesticide<br>Composition and<br>Method of<br>Treating Plants    | Issued: 12/29/92 | June 29, 2000<br>(7.5 year<br>maintenance)     |
| 6               | 5,238,480            | United States  | Fertilizer<br>Compositions<br>and Method of<br>Making Such<br>Compositions | Issued: 8/24/93  | February 24, 2001<br>(7.5 year<br>maintenance) |
| 15              | 5,237,936            | United States  | Pallet and Display<br>Assembly   | Issued: 8/24/93  | February 24, 2001<br>(7.5 year<br>maintenance) |

{55946 1}

EXHIBIT B

Patent Licenses

| <u>Licensor</u> | <u>Patent No.</u> | <u>Issue Date</u> | <u>Title</u> |
|-----------------|-------------------|-------------------|--------------|
|-----------------|-------------------|-------------------|--------------|

NONE

{48756.3}

RECORDED: 06/12/1998

PATENT  
REEL: 9235 FRAME: 0818