

04-30-2002

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

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| 1. Name of conveying party(ies)<br>Gencor Industries, Inc. <b>4-12-02</b><br><br>Additional name(s) of conveying party(ies) attached?<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>  | 2. Name and address of receiving party(ies)<br><br>Name: Credit Lyonnais, New York Branch<br><br>Internal Address:<br><br>Street Address: 1301 Avenue of the Americas<br>City: New York, New York 10019<br><br>Additional name(s) & address(es) attached? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| 3. Nature of conveyance:<br><br><input type="checkbox"/> Assignment<br><input checked="" type="checkbox"/> Security Agreement<br><input type="checkbox"/> Merger<br><input type="checkbox"/> Change of Name<br><input type="checkbox"/> Other<br><br>Execution Date: <u>December 27, 2001</u> |   |

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| 4. Application number(s) or patent number(s):<br><br>If this document is being filed together with a new application, the execution date of the application is:<br><br>A. Patent Application No.(s) _____ B. Patent No.(s): <u>6,185,842</u><br><br>Additional numbers attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>See attached list of patents on separate sheet</b> |  |
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| 5. Name and address of party to whom correspondence concerning document should be mailed:<br><br>Name: David Einhorn, Esq.<br>Internal Address: ANDERSON, KILL & OLICK, P.C.<br>Street Address: 1251 Avenue of the Americas<br>43rd Floor<br>City: <u>NEW YORK</u> State: <u>N.Y.</u> Zip: <u>10020-1182</u> | 6. Total number of applications and patents involved .... <u>7</u><br><br>7. Total fee (37 CFR 3.41) ..... \$ <u>280.00</u><br><br><input type="checkbox"/> Enclosed<br><input checked="" type="checkbox"/> Authorized to be charged to deposit account #01-1944 |
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|  | 8. Deposit account number: 01-1944<br>(Attach duplicate copy of this page if paying by deposit account) |
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| 9. <u>Statement and signature.</u><br>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.<br><br><div style="display: flex; justify-content: space-between;"> <div data-bbox="185 1365 457 1449">           Eugene Lieberstein<br/>           REG. NO.: 24,645<br/>           Name of Person Signing         </div> <div data-bbox="649 1302 1055 1491"> <br/>           Signature         </div> <div data-bbox="1218 1365 1380 1449"> <u>4/12/02</u><br/>           Date         </div> </div> <div style="text-align: right;">         Total number of pages including cover sheet, attachments, and document: <u>22</u> </div> |  |
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NYDOCS1-626528.1

**PATENT**  
**REEL: 012822 FRAME: 0663**

**LIST OF PATENTS AND PATENT APPLICATIONS INCLUDED IN THE COLLATERAL  
ASSIGNMENT AGREEMENT BETWEEN GENCOR INDUSTRIES AND CREDIT LYONNAIS NEW  
YORK BRANCH**

| U.S. GRANTED PATENTS          |                 |               |            |   |
|-------------------------------|-----------------|---------------|------------|---|
| Inventor Name                 | Application No. | Patent Date   | Patent No. | Title   |
| David F. Brashears            | 07/883,903      | Feb. 13, 2001 | 6,185,842  | Apparatus and Methods<br>for Controlling the<br>Temperature of Exhaust<br>Gases in a Drum Mixer |
| David F. Brashears            | 07/863,134      | Mar. 16, 1993 | 5,193,291  | Soil Remediation<br>Apparatus and Method  |
| E.J. Elliott                  | 06/773,950      | July 15, 1986 | 4,600,379  | Drum Heating and<br>Mixing Apparatus and<br>Method  |
| E.J. Elliott                  | 07/153,459      | Jan. 9, 1990  | 4,892,411  | Asphalt Mixer<br>Apparatus and Method   |
| David F. Brashears,<br>et.al. | 06/560,439      | May 7, 1985   | 4,515,090  | Solid Fuel Burner   |

| U.S. PATENT APPLICATIONS |                 |                              |
|--------------------------|-----------------|------------------------------|
| Application Date         | Application No. | Title                        |
| Aug. 30, 2000            | 09/651,107      | Low Emissions Burner         |
| July 17, 2001            | 09/905,890      | Improved Dust Removal System |

# AMENDED AND RESTATED BORROWER PATENT COLLATERAL ASSIGNMENT

AMENDED AND RESTATED BORROWER PATENT COLLATERAL ASSIGNMENT (this "*Agreement*"), dated as of December 31, 2001, made by GENCOR INDUSTRIES, INC. (the "*Borrower*"), in favor of CREDIT LYONNAIS NEW YORK BRANCH, as Agent (in such capacity, the "*Agent*") for the several banks and other financial institutions (the "*Lenders*") from time to time parties to the Amended and Restated Senior Secured Credit Agreement, dated as of December 31, 2001 (as the same may be amended supplement or otherwise modified from time to time, the "*Amended and Restated Credit Agreement*"), among the Borrower, the Lenders, Credit Lyonnais New York Branch as the Issuing Bank for the Letters of Credit (the "*Issuing Bank*" and, together with the Lenders, the "*Banks*"), and the Agent.

## RECITALS

**WHEREAS**, the Borrower is a party to (i) a certain Senior Secured Credit Agreement, dated as of December 10, 1996, by and among the Borrower, the Lenders, the Issuing Bank and the Agent, as amended from time to time (the "*Original Credit Agreement*"), and (ii) a certain Borrower Patent Collateral Assignment, dated as of December 10, 1996, by and between the Borrower, and the Agent (the "*Original Patent Collateral Assignment*");

**WHEREAS**, the Borrower and certain of its affiliates are operating their businesses as debtors-in-possession under Sections 1107 and 1108 of the Bankruptcy Code;

**WHEREAS**, pursuant to Section 1121 of the Bankruptcy Code, the Borrower filed its Fourth Amended Plan of Reorganization with the Bankruptcy Court on December 14, 2001, which plan, as modified, was confirmed by order of the Bankruptcy Court, dated December 18, 2001 (the "*Plan of Reorganization*");

**WHEREAS**, pursuant to the terms of the Plan of Reorganization, the Banks and the Agent are holders of an Allowed Claim, which claim reflects the pre-petition obligations outstanding to the Agent and the Banks, the payment of which was secured pursuant to the Original Patent Collateral Assignment among other documents;

**WHEREAS**, pursuant to the Plan of Reorganization, the Borrower, the Banks and the Agent have amended and restated the Original Credit Agreement to evidence the Allowed Claim; and

**WHEREAS**, it is a condition precedent to the effectiveness of the Plan of Reorganization that the Borrower shall have amended and restated the Original Patent Collateral Assignment to secure payment and performance of all of the Borrower's obligations and liabilities under the Amended and Restated Credit Agreement and the other Loan Documents.

## A G R E E M E N T

**NOW, THEREFORE**, the Borrower hereby agrees with the Agent, for itself and for the ratable benefit of the Banks, as follows:

1. *Defined Terms.* (a) Unless otherwise defined in this Agreement, capitalized terms shall have the meanings given them in the Amended and Restated Credit Agreement.

“*Code*”: the Uniform Commercial Code as from time to time in effect in the State of New York.

“*Obligations*”: the collective reference to the unpaid principal of, and the accrued and unpaid interest on, the Term Loans and Letter of Credit Loans and all other obligations and liabilities of the Borrower to the Agent and the Banks (including, without limitation, all of the Borrower’s obligations and liabilities under Sections 3, 3.A and 3.B of the Amended and Restated Credit Agreement and the Borrower’s liability for all interest that accrues after the maturity of the Loans and all interest that accrues after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, that may arise under, out of, or in connection with, the Amended and Restated Credit Agreement, any other Loan Document or any other document made, delivered or given in connection with the Amended and Restated Credit Agreement, any other Loan Document, whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all fees and disbursements of counsel to the Agent and the Banks that are required to be paid by the Borrower pursuant to the terms of the Amended and Restated Credit Agreement, this Agreement, any other Loan Document or any other document made, delivered or given in connection with the Amended and Restated Credit Agreement, any other Loan Document).

“*Patents*”: all of the patents, patent registrations and patent applications owned by the Borrower, or in which the Borrower acquires any right or interest, at any time prior to the termination of this Agreement.

(b) The words “hereof” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and subsection references are to this Agreement unless otherwise specified.

(c) The meanings given to terms defined in this Agreement shall be equally applicable to both the singular and plural forms of such terms.

2. *Collateral Assignment.* As collateral security for the prompt and complete payment and performance when and as due (whether at the stated maturity, by acceleration or otherwise) of the Obligations, the Borrower hereby grants, assigns and conveys to the Agent, for itself and for the ratable benefit of the Banks, the entire right, title and interest in and to all of the following (the “Collateral”).

(a) all of the Patents (including, without limitation, the Patents set forth on Schedule 1 to this Agreement) and the invitations and improvements described and claimed in such Patents;

(b) all patentable inventions owned by the Borrower at any time prior to the termination of this Agreement;

(c) all reissues, divisions, continuations, renewals, extensions and continuations-in-part of any Patents or patentable inventions;

(d) all income, royalties, damages and payments now and hereafter due or payable with respect to any Patents or patentable inventions (including, without limitation, payments under all licenses entered into in connection with any Patent or patentable invention and damages and payments for past or future infringements of any Patent or patentable invention);

(e) the right to sue for past, present and future infringements of any Patent or patentable invention; and

(f) all rights corresponding to the Patents and patentable inventions throughout the world.

(g) all agreements, whether written or oral, providing for the grant by or to the Borrower of any right to manufacture, use or sell any invention covered by a Patent, including, without limitation, any agreement referred to in Schedule 1 to this Agreement; and

(h) all products and proceeds of the foregoing.

3. *License.* Unless and until there shall have occurred and be continuing an Event of Default, the Agent hereby grants to the Borrower the exclusive right and license under the Patents to make, have made for it, use and sell the inventions disclosed and claimed in the Patents for the Borrower's own benefit and account and for none other. The Borrower agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to the Borrower in this Section 3, without the prior written consent of the Agent, other than in the ordinary course of the Borrower's business to a person not an Affiliate of the Borrower. The Agent acknowledges that the transfer to the Agent, for itself and for the ratable benefit of the Banks, under Section 2 of this Agreement is to secure payment of all Obligations and performance of all duties under the Amended and Restated Credit Agreement and the other Loan Documents and such transfer shall not constitute a present transfer of ownership of the Patents notwithstanding the grant of the License to the Borrower under this Section 3.

4. *Restrictions on Future Agreements.* Until this Agreement has terminated, the Borrower, without the Agent's prior written consent, will not (a) enter into any agreement (including, without limitation, any license or sublicense agreement) that is inconsistent with the Borrower's obligations under this Agreement, the Amended and Restated Credit Agreement or any other Loan Document, (b) take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any action (including, without limitation, the abandonment of any Patent), that would affect the validity or enforceability of the rights

transferred, to the Agent, for itself and for the ratable benefit of the Banks, under this Agreement, or (c) enter into any other contractual obligations that may restrict or inhibit the Agent's rights to sell or otherwise dispose of the Patents or any part thereof after the occurrence of an Event of Default.

5. *New Patents.* If, before the termination of this Agreement, the Borrower shall (i) (a) obtain any registration or apply for any registration after the Closing Date in the United States Patent and Trademark Office or in any similar office or agency of a state, territory or possession of the United States or any similar office or agency in any other country or (b) obtain rights to or an interest in any patents or new patentable inventions, or (ii) become entitled to the benefit of any patent application, patent or patent registration or any reissue, division, continuation, renewal, extension, or continuation-in-part of any patent or any improvement on any patent, the Agent, for itself and for the ratable benefit of the Banks, shall have a valid first priority security interest in each such patent, patent registration, patent application and patentable invention. In the event that the Borrower becomes the owner of, or acquires any right to or interest in, any patent, patent registration or patent application after the Closing Date, the Borrower shall (i) promptly notify the Agent and update Schedule 1 to this Agreement to the extent necessary to accurately identify each such patent, patent registration and patent application, and (ii) provide the Agent with a copy of each such updated schedule.

6. *Representations and Warranties.* The Borrower hereby represents, warrants, covenants and agrees that on the Closing Date:

(a) Except as otherwise provided in this Agreement or any other Loan Document, it is and will continue to be the owner of all its right, title and interest in the Patents free from any Liens.

(b) It has the full right and power to grant the security interest in the Collateral to the Agent, for the benefit of the Banks, as and to the extent provided by this Agreement.

(c) It has made no previous assignment, transfer or agreements in conflict with this Agreement or constituting a present or future assignment, transfer, or encumbrance on any of the Patents.

(d) Until this Agreement has terminated, it will not execute and, except as otherwise permitted by the Amended and Restated Credit Agreement or any other Loan Document, there will not be on file in any public office, any financing statement or other document or instruments evidencing or giving notice of any Lien with respect to the Patents.

(e) No material infringement or unauthorized use presently is being made of any of the Patents that could adversely affect the fair market value of the Patents or the benefits, rights or powers granted to the Agent, for the ratable benefit of the Banks, pursuant to this Agreement or the validity, priority and perfection of the security interests granted in the Collateral pursuant to this Agreement or the remedies of the Agent, for itself and for the ratable benefit of the Banks, under this Agreement and the Borrower will continue to maintain monitoring and enforcement practices that fully and adequately protect the Patents.

(f) The Patents are subsisting and have not been adjudged invalid or unenforceable, in whole or part.

(g) Each of the Patents is valid and enforceable and the Borrower has notified the Agent in writing of all prior art (including public uses and sales) of which it is aware.

(h) The Borrower's chief executive office and chief place of business is set forth on Schedule 2 to this Agreement as amended pursuant to Section 8(c) of this Agreement.

(i) Schedule 1 to this Agreement, as amended pursuant to Section 4 of this Agreement, accurately identifies all of the registered patents and patent applications that are owned by, or are pending on behalf of, the Borrower and all other Patents in which the Borrower has acquired any right or interest.

(j) The Borrower has registered or filed for registration all Patents owned by the Borrower. Each Patent is valid, subsisting, unexpired, unenforceable and has not been abandoned. No holding, decision or judgment has been rendered by any Governmental Authority that would limit, cancel or question the validity of any Patent. No action or proceeding is pending that seeks to limit, cancel or question the validity of any Patent.

7. *Royalties.* The Borrower hereby agrees that the permitted use by the Agent, for itself and for the ratable benefit of the Banks, of all Patents shall be worldwide without any liability for royalties or other related charges from the Agent or any of the Banks to the Borrower.

8. *Duties of the Borrower.* (a) The Borrower shall (i) prosecute diligently any trademark application that is part of the Patents pending as of the Closing Date or thereafter until this Agreement has terminated, (ii) make application on patents as the Borrower reasonably determines to be appropriate, (iii) take all reasonable steps to preserve and maintain all rights in patents, patent applications, and patent registrations that are part of the Patents, (iv) not abandon any right to file a patent application nor any pending patent application if the value thereof could reasonably be expected to justify the cost of obtaining such patent, and (v) not abandon any Patent without the consent of the Agent. Any expenses incurred in connection with the applications referred to in this Section 8 shall be borne by the Borrower. The Borrower agrees to retain an experienced patent attorney for the filing and prosecution of all such applications and other proceedings.

(b) The Borrower shall maintain the security interests created in favor of the Agent, for itself and for the ratable benefit of the Banks, in the Collateral pursuant to this Agreement as valid and duly perfected first priority security interests and shall defend such security interests against claims and demands of all Persons whomsoever. At any time and from time to time, upon the written request of the Agent, and at the sole expense of the Borrower, the Borrower shall promptly and duly execute and deliver such further instruments and documents and take such further actions as the Agent may request for the purposes of obtaining or preserving all of the benefits, rights and powers granted to the Agent and the Banks pursuant to this Agreement. In addition, the Borrower shall execute and deliver such further documents and instruments and take such further actions as are necessary or desirable, or that are requested by

the Agent, to create and maintain in favor of the Agent, for itself and for the ratable benefit of the Banks, valid and duly perfected first priority security interests in all of the Collateral under all applicable foreign laws and shall defend such security interests from all persons whomsoever.

(c) The Borrower shall not permit any of the changes described below unless (x) at least 20 days prior to such change, the Agent shall have received written notice of such change and an updated copy of each schedule to this Agreement required to be updated as result of such change, and (y) all filings and notices have been made to maintain in favor of the Agent, for itself and for the ratable benefit of the Banks, valid and duly perfected first priority security interests in the Collateral, subject to no Liens other than those created pursuant to the Loan Documents:

a. change the location of its chief executive office and chief place of business from that set forth on Schedule 2 to this Agreement, as amended; or

b. change its name, identity or corporate structure to such an extent that any financing statement filed in favor of the Agent in connection with this Agreement would become inaccurate or misleading.

9. *Remedies.* (a) If an Event of Default shall have occurred and be continuing, the Agent on behalf of the Banks may exercise, in addition to all other rights and remedies granted to the Agent and the Banks in this Agreement, any Loan Document and any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the Code (whether or not the Code applies to any part of the Collateral) and any other applicable laws. Without limiting the generality of the foregoing, the Agent, without demand of performance or other demand presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon the Borrower or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral or any part thereof, or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of the Agent or any Bank or elsewhere upon such terms and conditions as it reasonably may deem advisable and at such prices as it reasonably may deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Agent or any Bank shall have the right upon any such public sale or sales and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of (to the extent permitted by law) any right or equity of redemption in the Borrower, which right or equity is (to the extent permitted by law) hereby waived or released. The Agent shall apply the net proceeds of any such collection, recovery, receipt, appropriation, realization or sale, after deducting all reasonable costs and expenses incurred therein or incidental to the care or safekeeping of any of the Collateral or reasonably relating to the Collateral or the rights of the Agent and the Banks under this Agreement (including, without limitation, attorneys' fees and disbursements) to the payment in whole or in part of the Obligations, in such order as the Agent may elect, and only after such application and after the payment by the Agent of any other amount required by any provision of law (including, without limitation, Section 9-504(1)(c) of the Code) need the Agent account for the surplus, if any, to the Borrower. If any notice of a



proposed sale or other disposition of Collateral shall be required by law, such notice shall be in writing and deemed reasonable and proper if given at least 10 days before such sale or other disposition.

(b) The Borrower waives and agrees not to assert any rights or privileges that it may acquire under Section 9-112 of the Code. The Borrower shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay the Obligations and the fees and disbursements of any attorneys employed by the Agent or any Bank to collect such deficiency.

10. *Agent's Appointment as Attorney-in-Fact; Agent's Performance of Borrower's Obligations.* (a) The Borrower hereby irrevocably constitutes and appoints the Agent and any officer or agent of the Agent (each, an "Attorney") with full power of substitution, as its true and lawful attorney-in-fact, with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or in its own name from time to time in the Agent's discretion, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, the Borrower hereby gives each Attorney the power and right, on behalf of the Borrower, without notice to or assent by the Borrower, to do the following upon the occurrence and during the continuance of an Event of Default:

(1) to execute and deliver any and all agreements, instruments, documents, and papers as the Agent may reasonably request to evidence the security interest of the Agent, for itself and for the ratable benefit of the Banks, in Collateral;

(2) to pay or discharge taxes and Liens levied or placed on or threatened against any of the Collateral;

(3) to execute, in connection with any sale provided for in Section 9 of this Agreement, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral and any part thereof; and

(4) (i) to direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Agent or as the Agent shall direct; (ii) to ask or demand for, collect, receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any part of the Collateral; (iii) to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to protect, preserve, or realize upon the Collateral or any part thereof and to enforce any other right in respect of any part of the Collateral; (iv) to defend any suit, action or proceeding brought against the Borrower with respect to any part of the Collateral; (v) to settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, to give such discharges or releases as the Agent may deem appropriate; (vi) to assign, license or sublicense any Collateral throughout the world for such term or terms, on such conditions, and in such manner, as the Agent shall in its sole discretion determine; and (vii) to sell, transfer, pledge and make any agreement with respect to or otherwise deal with any part of the Collateral as fully and completely as though the Agent were

the absolute owner thereof for all purposes, and to do, at the Agent's option and the Borrower's expense, at any time, or from time to time, all acts and things that the Agent reasonably deems necessary to protect, preserve or realize upon the Collateral or any part thereof and the security interests of the Agent, for itself and for the ratable benefit of the Banks, and to effect the intent of this Agreement, all as fully and effectively as the Borrower might do.

(b) If the Borrower fails to perform or comply with any of its agreements contained in this Agreement, any Attorney may, at the option of the Agent but without any obligation so to do, perform or comply, or otherwise cause performance or compliance, with such agreement.

(c) The expenses of the Agent incurred in connection with any actions taken pursuant to this Section 10, together with interest thereon at a rate per annum equal to 3½% above the Base Rate then in effect from the date payment is demanded by the Agent to the date reimbursed by the Borrower, shall be payable by the Borrower to the Agent on demand.

(d) The Borrower hereby ratifies all actions taken by each Attorney pursuant to this Section 10. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

11. *Duty of Agent.* The Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the Code or otherwise, shall be to deal with it in the same manner as the Agent deals with similar property for its own account. None of the Agent, any Bank or any of their respective directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any of the Collateral upon the request of the Borrower or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Agent and the Banks under this Agreement are solely to protect their interests in the Collateral and shall not impose any duty upon the Agent or any Bank to exercise any such powers. The Agent and the Banks shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to the Borrower for any act or failure to act under or with respect to this Agreement, except for their own gross negligence or willful misconduct (as determined in a final non-appealable judgment by a court of competent jurisdiction).

12. *Execution of Financing Statements.* Pursuant to Section 9-402 of the Code, the Borrower authorizes the Agent to file financing statements with respect to the Collateral without the signature of the Borrower in such form and in such filing offices as the Agent reasonably determines appropriate to perfect the security interests granted to the Agent, for itself and for the ratable benefit of the Banks, pursuant to this Agreement. A carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement for filing in any jurisdiction. The Agent is authorized to describe the Collateral covered by any financing statement filed by it under the Code as "all assets" or "all personal property" of the Borrower.

The Agent is authorized to describe the Collateral covered by any financing statement filed by it under the Code as "all assets" or "all personal property" of the Borrower.

13. *Authority of Agent.* The Borrower acknowledges that the rights and responsibilities of the Agent under this Agreement with respect to any action taken by the Agent or the exercise or non-exercise by the Agent of any option, voting right, request, judgment or other right or remedy provided for in this Agreement or resulting or arising out of this Agreement shall, as between the Agent and the Banks, be governed by the Amended and Restated Credit Agreement and by such other agreements with respect thereto as may exist from time to time among them but, as between the Agent and the Borrower, the Agent shall be conclusively presumed to be acting as agent for the Banks with full and valid authority so to act or refrain from acting.

14. *Notices.* All notices, requests and demands to or upon the Agent or the Borrower under this Agreement shall be given or made in accordance with the Amended and Restated Credit Agreement.

15. *Termination and Release.* (a) This Agreement and the security interests created in favor of the Agent, for itself and for the ratable benefit of the Banks, pursuant to this Agreement shall terminate when all of the Obligations have been fully and indefeasibly paid and when the Banks have no further Commitments under the Amended and Restated Credit Agreement and no Letters of Credit are outstanding or unreimbursed, at which time the Agent shall execute and deliver to the Borrower all deeds, assignments and other instruments as may be necessary or proper to re-vest in the Borrower full title to the Patents, subject to any disposition thereof that may have been made by the Agent, for the ratable benefit of the Banks, pursuant to this Agreement. Such reassignment and redelivery shall be without warranty by or recourse to the Agent or any of the Banks, and shall be at the expense of the Borrower.

(b) All Collateral used, sold, transferred or otherwise disposed of by the Borrower in accordance with the terms of the Amended and Restated Credit Agreement (including, without limitation, pursuant to a waiver or amendment of the terms of the Amended and Restated Credit Agreement), shall be used, sold, transferred or otherwise disposed of free and clear of the Lien and the security interest created under this Agreement. In connection with any such sale, transfer or disposition of Collateral, (i) the Agent shall deliver to the Borrower, or to such person or persons as the Borrower shall reasonably designate, all Uniform Commercial Code termination statements and similar documents prepared by the Borrower at the Borrower's expense that the Borrower shall reasonably request to evidence the release of the Liens and security interests created under this Agreement with respect to such Collateral, and (ii) any representation, warranty or covenant contained in this Agreement relating to such Collateral shall no longer be deemed to be made with respect to such used, sold, transferred or otherwise disposed Collateral.

16. *Severability.* Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

17. *Amendments in Writing; No Waiver; Cumulative Remedies.* (a) None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with the provisions of Section 10.1 of the Amended and Restated Credit Agreement and pursuant to a written instrument executed by the Borrower and the Agent; *provided, however*, the schedules to this Agreement shall be amended and updated by the Borrower as and to the extent required by this Agreement.

(b) Neither the Agent nor any Bank shall by any act (except by a written instrument pursuant to Section 17(a) of this Agreement) or delay be deemed to have waived any right or remedy under this Agreement or to have acquiesced in any Default or Event of Default or in any breach of any of the terms and conditions of this Agreement. No failure to exercise, nor any delay in exercising, on the part of the Agent or any Bank, any right, power or privilege under this Agreement shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege under this Agreement shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Agent or any Bank of any right or remedy under this Agreement on any one occasion shall not be construed as a bar to any right or remedy that the Agent or such Bank would otherwise have on any future occasion.

(c) The rights and remedies provided to the Agent and the Banks in this Agreement are cumulative, may be exercised singly or concurrently and are not exclusive of any other rights or remedies provided by law.

(d) Notwithstanding anything herein to the contrary, to the extent that any provisions herein are directly contrary to the provisions of the Amended and Restated Credit Agreement, such provisions in the Amended and Restated Credit Agreement shall control.


18. *Section Headings.* The section and subsection headings used in this Agreement are for convenience of reference only and are not to affect the construction of this Agreement or be taken into consideration in the interpretation of this Agreement.

19. *Successors and Assigns.* This Agreement shall be binding upon the successors and assigns of the Borrower and shall inure to the benefit of the Borrower, the Agent and the Banks and their successors and assigns; *provided, however*, that the Borrower may not assign any of its rights, or delegate any of its duties or obligations, under this Agreement without the prior written consent of the Agent.

20. **GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE INTERNAL LAW OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE CONFLICT OF LAW PROVISIONS THEREOF.**

**IN WITNESS WHEREOF**, the Borrower has duly executed and delivered this Agreement as of the day and year first above written.

GENCOR INDUSTRIES, INC.

By:   
Name: John E. Elliott  
Title: Executive-Vice President

Schedules:

Schedule 1: Patents

Schedule 2: Location of Chief Executive Office and Chief Place of Business

STATE OF NEW YORK     )  
                                      ) ss.:  
COUNTY OF NEW YORK    )

On the 27<sup>th</sup> day of December in the year 2001, before me personally came John E. Elliott to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same.

Valerie Savickis Cohen  
Notary Public

VALERIE SAVICKIS Cohen  
Notary Public, State of New York  
No. 01541997BRS  
Qualified in Suffolk County  
Commission Expires June 15, 2002

# SCHEDULE 1

## PATENTS

| GENCOR INDUSTRIES, INC. PATENTS |                   |                  |                   |                  |   |
|---------------------------------|-------------------|------------------|-------------------|------------------|---|
| <i>Country</i>                  | <i>Appln Date</i> | <i>Appln No.</i> | <i>Grant Date</i> | <i>Grant No.</i> | <i>Title</i>                              |
| US                              | 05/18/1992        | 07/883,903       | 02/13/2001        | 6,185,842        | Apparatus and Methods for Controlling the |
| US                              | 04/01/1992        | 07/863,134       | 03/16/1993        | 5,193,291        | Soil Remediation Apparatus and Method     |
| WO                              | 10/31/1991        | US91/08154       |                   |                  | Soil Remediation Apparatus and Method     |
| WO                              | 10/31/1991        | US91/08171       |                   |                  | Apparatus and Methods for Remediating     |
| CA                              | 01/08/1993        | 2086994-1        |                   |                  | Gate Seal for Asphalt Storage Silo        |
| EP                              | 10/31/1991        | 92900498.4       | 05/15/1996        | 0555384          | Soil Remediation Apparatus and Method     |

| GENCOR INDUSTRIES, INC. PATENTS |                   |                  |                   |                  |   |  |
|---------------------------------|-------------------|------------------|-------------------|------------------|---|--|
| <i>Country</i>                  | <i>Appln Date</i> | <i>Appln No.</i> | <i>Grant Date</i> | <i>Grant No.</i> | <i>Title</i>                                |  |
| CA                              | 10/31/1991        | 2,094,909        |                   |                  | Soil Remediation Apparatus and Method       |  |
| EP                              | 10/31/1991        | 92900768.0       | 09/15/1999        | 0561906          | Apparatus and Methods for Remediating       |  |
| CA                              | 10/20/1994        | 2,133,949        |                   |                  | Counterflow Drum Mixer for Making Asphaltic |  |
| AU                              | 10/12/1994        | 75770/94         | 10/12/1994        | 675349           | Counterflow Drum Mixer for Making Asphaltic |  |
| MX                              | 11/03/1994        | 948524           |                   |                  | Counterflow Drum Mixer for Making Asphaltic |  |
| EP                              | 10/28/1994        | 94307958.2       | 09/20/2000        | 0659937          | Counterflow Drum Mixer for Making Asphaltic |  |
| RU                              | 12/13/1994        | P94044442        | 12/13/1994        | 2139969          | Counterflow Drum Mixer for Making Asphaltic |  |
| KZ                              | 12/09/1994        | 941804.1         | 06/15/2000        | 5562             | Counterflow Drum Mixer for                  |  |



| GENCOR INDUSTRIES, INC. PATENTS |                   |                  |                   |                  |   |  |
|---------------------------------|-------------------|------------------|-------------------|------------------|---|--|
| <i>Country</i>                  | <i>Appln Date</i> | <i>Appln No.</i> | <i>Grant Date</i> | <i>Grant No.</i> | <i>Title</i>                                  |  |
|                                 |                   |                  |                   |                  | Making Asphaltic                              |  |
| FR                              | 12/03/1987        | 87/16817         | 04/01/1994        | 87/16817         | Scraper for Sugar Centrifuge                  |  |
| SE                              | 12/22/1983        | 8307107-6        | 09/19/1985        | 8307107-6        | Locking Device for Automatic Scraper for      |  |
| AU                              | 12/08/1992        | 29947/92         | 01/30/1996        | 663540           | Apparatus and Method for Providing Reduced    |  |
| IT                              | 12/11/1992        | MI92A02845       | 12/12/1995        | 1256655          | Apparatus and Method for Providing Reduced    |  |
| AU                              | 12/08/1992        | 29945/92         | 01/30/1996        | 663539           | Device and Method for Reducing Crystal Impact |  |
| IT                              | 12/11/1992        | MI92A02846       | 12/12/1995        | 1256656          | Device and Method for Reducing Crystal Impact |  |
| AU                              | 12/08/1992        | 29946/92         | 12/28/1995        | 662576           | Apparatus and                                 |  |

| GENCOR INDUSTRIES, INC. PATENTS |            |            |            |           |   |  |
|---------------------------------|------------|------------|------------|-----------|---|--|
| Country                         | Appln Date | Appln No.  | Grant Date | Grant No. | Title   |  |
|                                 |            |            |            |           | Method for Enhancing Sugar                    |  |
| IT                              | 12/11/1992 | MI92A02844 | 12/12/1995 | 1256654   | Apparatus and Method for Enhancing Sugar      |  |
| IT                              | 08/28/1992 | MI92A02028 | 12/01/1995 | 1256351   | Apparatus and Method for Reducing Lump Format |  |
| ZA                              | 12/09/1992 | 92/9546    | 08/25/1993 | 92/9546   | Apparatus and Method for Enhancing Sugar Crys |  |
| ZA                              | 12/09/1992 | 92/9551    | 08/25/1993 | 92/9551   | Apparatus and Method for Providing Reduce     |  |
| ZA                              | 08/12/1992 | 92/6072    | 04/28/1993 | 92/6072   | Apparatus and Method for Reducing Lump Format |  |
| US                              | 09/09/1985 | 773,950    | 07/15/1986 | 4,600,379 | Drum Heating & Mixing Apparatus               |  |
| US                              | 02/08/1988 | 153,459    | 01/09/1990 | 4,892,411 | Asphalt Mixer                                 |  |

| GENCOR INDUSTRIES, INC. PATENTS |                   |                  |                   |                  |   |  |
|---------------------------------|-------------------|------------------|-------------------|------------------|---|--|
| <i>Country</i>                  | <i>Appln Date</i> | <i>Appln No.</i> | <i>Grant Date</i> | <i>Grant No.</i> | <i>Title</i>                                |  |
|                                 |                   |                  |                   |                  | Apparatus and Method                        |  |
| CA                              | 07/22/1997        | 2,211,119        |                   |                  | Counterflow Drum Mixer for Making Asphaltic |  |
| AU                              | 07/31/1997        | 32441/97         | 03/09/2000        | 713149           | Counterflow Drum Mixer for Making Asphaltic |  |
| MX                              | 08/27/1997        | 976535           | 07/18/2001        | 203,095          | Counterflow Drum Mixer for Making Asphaltic |  |
| EP                              | 07/24/1997        | 97305575.9       |                   |                  | Counterflow Drum Mixer for Making Asphaltic |  |
| US                              | 12/12/1983        | 06/560,439       | 05/07/1985        | 4,515,090        | Solid Fuel Burner                           |  |
| US                              | 08/30/2000        | 09/651,107       |                   |                  | Low Emissions Burner                        |  |
| DE                              | 10/28/1994        | 0659937          | 09/20/2000        | 69425950.0       | Counterflow Drum Mixer for Making Asphaltic |  |
| FR                              | 10/28/1994        | 94307958.2       | 09/20/2000        | 0659937          | Counterflow Drum Mixer for                  |  |

| GENCOR INDUSTRIES, INC. PATENTS |                   |                  |                   |                  |   |
|---------------------------------|-------------------|------------------|-------------------|------------------|---|
| <i>Country</i>                  | <i>Appln Date</i> | <i>Appln No.</i> | <i>Grant Date</i> | <i>Grant No.</i> | <i>Title</i>                                      |
|                                 |                   |                  |                   |                  | Making Asphaltic                                  |
| GB                              | 10/28/1994        | 94307958.2       | 09/20/2000        | 0659937          | Counterflow<br>Drum Mixer for<br>Making Asphaltic |
| US                              | 07/17/2001        | 09/905,890       |                   |                  | Improved Dust<br>Removal System                   |

**SCHEDULE 2**

**LOCATION OF CHIEF EXECUTIVE  
OFFICE AND CHIEF PLACE OF BUSINESS**

5201 North Orange Blossom Trail  
Orlando, FL 32810

INITIAL \_\_\_\_\_

DCS1-548178.6

**RECORDED: 04/12/2002**

**PATENT  
REEL: 012822 FRAME: 0683**