

09-22-2003



102555160

To the Assistant Commissioner of Patents: Please re

/ thereof.

1. Name of conveying party(ies):
INSTITUT NATIONAL D'OPTIQUE

Additional names of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies):

Name: OBZERV TECHNOLOGIES INC.

Internal Address: _____

Street Address: 400 Jean Lesage Blvd, suite 201

City: Québec State Québec, Canada ZIP G1K 8W1

Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:

Assignment Merger

Security Agreement Change of Name

Other License

Execution Date: June 18, 2003

4. Application number(s) or patent number(s):
 If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)

B. Patent No.(s)
5,825,803

Additional numbers attached? Yes No

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

OGILVY RENAULT
 500 Grande-Allée Est
 Suite 520
 Québec, Québec
 Canada G1R 2J7
 Tel. (418) 640-5988

Attorney Docket No.: 01010102-0005 PM/JFD/al

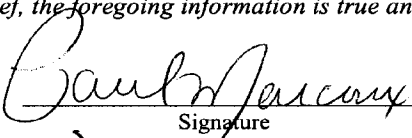
6. Total number of application and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00
 Any deficiencies in enclosed fees are authorized to be charged to deposit account

8. Deposit account number: 19-5113
 (Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Paul Marcoux, Reg. 24,990  September 12, 2003
 Name of Person Signing Signature Date

09/17/2003 ECDOPER 00000236 195113 5825803
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Total number of pages comprising cover sheet: 14

TECHNOLOGY LICENSING AGREEMENT

BETWEEN: **INSTITUT NATIONAL D'OPTIQUE / NATIONAL OPTICS INSTITUTE**, a corporation under Part II of the Canada Corporations (ch. C-32) with its head office at 2740 Einstein, in the City of Quebec, Province of Quebec, Canada, carrying its activities and designated as "INO", represented by Mr. Jean-Guy Paquet, its President and CEO, who is duly authorized to represent INO herein as he so declares,

(hereinafter referred to as "INO")

AND: **OBZERV TECHNOLOGIES INC.**, a legal entity, duly incorporated pursuant to the laws of Canada, having its head or registered office at 400 Jean Lesage Blvd., suite 201, in the City of Quebec, Province of Quebec, G1K 8W1, represented by Mr. Deni Bonnier, its President, who is duly authorized to represent OBZERV herein as he so declares,

(hereinafter referred to as "OBZERV")

CONSIDERING THAT INO has developed expertise, know-how and technology in various areas of optics and photonics including a diode array laser illuminator known as DALIS™, and an ATV Laser Imaging System using the DALIS™;

CONSIDERING THAT a strong commercial potential has been confirmed by INO and that the spin-off approach has been identified as the most appropriate to grant the use of its DALIS™ for the military and security markets along with the transfer of its ATV Laser Imaging System;

CONSIDERING THAT an agreement (*Lettre d'entente*) has been signed between INO and OBZERV as at September 30, 2002 establishing the general terms and principles for a transfer of technology and providing the basic conditions for a licensing agreement between them and stating in details the terms and conditions of such transfer;

CONSIDERING THAT INO and OBZERV are desirous of entering into this License Agreement on the terms and conditions hereinafter set forth;

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

- 1.1 **"Accounting Date"** shall mean the anniversary date of this agreement.
- 1.2 **"Affiliate"** shall mean any corporation, person or entity that controls, is controlled by, or is under the common control with, a party to this agreement, without regard to stock ownership.

- 1.3 **"Agreement"** shall mean this Agreement, including its preamble, recitals and schedules, any ancillary documents, as well as any amendments or variations made from time to time by the parties.
- 1.4 **"Confidential Information"** shall mean and include all knowledge and information regarding the Licensed Technology and all information concerning the parties including, without limitation, financial data, drawings, samples, devices, demonstrations, know-how, and other materials of whatever description, whether subject to or protected by copyright, patent, trademark, registered or unregistered, or otherwise, disclosed or communicated (whether in writing or orally) before or after the date of this agreement by one party to the other party..
- 1.5 **"Dalis™ Technology"** means intellectual property of any kind including, without limitation, technical information, know-how, procedure, process, formula, technical usages, information diagrams, drawings, specifications, material lists, production manuals and information developed or used by INO regarding its technology known under the name of "INO Diode Array Laser Illuminator System (DALIS™)", which is a near-infrared, pulsed laser illuminator well suited for providing high-resolution imaging in any light level and based on near-IR laser diode arrays collimated using INO's patented microlens collimation technology (USA Patent no: 5,825,803; Canada Patent no: 2,165,262)
- 1.6 **"Effective Date"** shall be April 14, 2003.
- 1.7 **"Improvements"** mean intellectual property in any modification, adaptation, enhancement, update, upgrading or functional change made to the Licensed Technology.
- 1.8 **"Industrial secrets"** refer to, as the case may be, all the confidential information belonging to INO that it does not normally share with third parties, any acquired knowledge by OBZERV in the course of the present license without which the Technology would lose its originality, efficiency and exclusivity as well as any process not yet patented.
- 1.9 **"INO ATV Laser Imaging Technology"** refers to the technical information, know-how, procedure, process, formula, industrial secrets, technical usages, information, diagrams, drawings, specifications, material lists, production manuals and information developed or used by INO regarding its technology described as an ATV laser imaging system developed by INO based on the Dalis™ Technology and offering long range vision in total darkness and adverse weather conditions, as it exists upon the Effective Date, which, without limiting the above, includes the custom ATV simulation software.
- 1.10 **"Know-how"** shall mean all written non-patented or non-patentable inventions, know-how, trade secrets and other information developed or acquired by INO and sufficiently detailed that a third party can use the Know-how to produce, manufacture, fabricate, assemble, sell, lease or otherwise promote the Products.
- 1.10 **"License"** refers to the license rights granted by INO to OBZERV in accordance with this Agreement
- 1.11 **"Licensed Technology"** means the Dalis™ Technology and the INO ATV Laser Imaging Technology for their use as provided for herein.

- 1.12. **"Licensed Territory"** shall mean the world.
- 1.13. **"Military Security and Surveillance Markets"** refer to the markets comprised of the following end users: Police Forces, Border Control, Coast Guards, Search and Rescue, Public and Private Security and Surveillance, Home Security and Armed Forces.
- 1.14. **"Net Sales"** are the total amounts charged for OBZERV's sale of Products, less sales or value added taxed imposed on the sale of merchandise by governmental authorities, and less applicable freight charges. No other deductions shall be made from Net Sales, including without limitation deductions from bad debts, product defects, product returns, chargebacks, credits, or other adjustments.
- 1.15. **"Products"** mean the whole or any part of any materials, goods, articles, parts, processes, supplies and other goods embodying the Licensed Technology .
- 1.16. **"Related Agreement"** refers to the other agreements enter into between the parties with respect to the Licensed Technology, such agreements including the *Lettre d'entente* of September 30, 2002 and the Dalis™ Supply Agreement to be entered into subsequently.
- 1.17. **"Term"**: Subject to Section 7, the "Term" of this Agreement shall be for a period of an initial term of two (2) years commencing on the Effective Date.

2. GRANT OF LICENSE

- 2.1 Subject to the compliance with the terms and conditions of this Agreement, INO hereby grants to OBZERV:
- 2.1.1 a license to use, sell, distribute and develop Products that incorporate the Dalis™ Technology within the Term and the Territory, such license being:
- 2.1.1.1 Exclusive for the technological and commercial applications related to the Military Security and Surveillance Markets;
- 2.1.1.2 Non-exclusive for any other markets.
- Such a license does not include the right for OBZERV to produce or manufacture the Dalis™ Technology, which remains with INO.
- 2.1.2 an exclusive license to use, sell, distribute and develop Products that incorporate the INO ATV Laser Imaging Technology within the Term and the Territory.
- 2.2 OBZERV may have the right to sub-license the License Agreement or any portion thereof with the prior express written consent of INO which may not be unreasonably refused.

3. **TECHNICAL AND COMMERCIAL INFORMATION**

- 3.1 Upon signature of this Agreement, INO will supply OBZERV with all technical and commercial information related to the Licensed Technology and which might reasonably be of commercial interest in the design, manufacture or supply of the Products, in its possession that has not previously been disclosed that is reasonably necessary or desirable to enable OBZERV to use and manufacture on a commercial scale and sell Products.
- 3.2 Without limiting the scope of this section, INO will supply OBZERV with all commercial survey, market study and any other data it has at the Effective Date and which may be required for the purposes of promoting, selling and marketing the Products within the Territory.

4. **TRAINING**

- 4.1 INO will at the request of OBZERV supply, free of charge, within six (6) months from the Effective Date or such other period as may be mutually agreed and for a maximum of fifty hours in total, the reasonably requested services of its suitably qualified staff to assist by telephone or in person in the transfer of necessary technical information to OBZERV.
- 4.2 INO shall use all reasonable endeavors to ensure that all technical information disclosed or to be disclosed to OBZERV hereunder is or will be, to the best of INO's knowledge and belief, accurate. Furthermore, OBZERV declares having a "first hand" and thorough knowledge of the Licensed Technology and accepts it "as is".

5. **WARRANTIES**

- 5.1 INO hereby warrants and represents to OBZERV that INO is the owner of the Licensed Technology and has the right to grant to OBZERV the License to use and exploit same as set forth in this Agreement without violating any rights of any third party, and that there is currently no actual or threatened suit by any such third party based on an alleged violation of such rights by INO.
- 5.2 INO makes no representation or warranty of any kind with respect to the accuracy, usefulness, novelty, validity, scope or enforceability of the Licensed Technology and expressly disclaims any implied warranty of merchantability of fitness for a particular purpose with respect to the Licensed Technology.
- 5.3 Both parties represent that they have full power and authority to enter into this Agreement and the execution, delivery and consummation of this Agreement have been duly authorized by all necessary corporate actions on their parts. Both parties acknowledge that this Agreement constitutes a valid and binding obligation of the parties enforceable according to its terms.
- 5.4 Both parties represent that the execution, delivery and consummation of this Agreement will not conflict with or result in a breach of terms, conditions or provisions of, or constitute default under, any agreements or instruments to which either party is now subject.

FINANCIAL CONSIDERATIONS**6.1 Royalties**

These Licenses are granted in consideration of on-going royalties established as follows:

- 6.1.1 five per cent (5%) of all of OBZERV's Net Sales of Products that include the Dalis™ Technology;
- 6.1.2 for all of OBZERV's Net Sales of Products that include an ATV systems but specifically exclude the Dalis™ Technology, a decreasing royalty of:
 - 6.1.2.1 three per cent (3%) of related net sales for the first year of the commercialization of such said Products;
 - 6.1.2.2 two per cent (2%) of related net sales for the second year of the commercialization of such said Products;
 - 6.1.2.3 one per cent (1%) of related net sales for the third and forth year of the commercialization of said Products.

It is understood that the commercialization referred to shall be deemed underway upon the first occurrence of (i) the date of the sale of an ATV system not including the Dalis™ Technology or (ii) the voting of an operational budget by OBZERV's Board of Directors providing for immediate funding of the commercialization of such ATV systems not including the Dalis™ Technology.

- 6.1.3 Furthermore, the payment of royalties by OBZERV shall end once the overall total amount of royalties paid to INO is of two million dollars (\$2,000,000). The unpaid amount of the said sum will be adjusted annually at the anniversary date of this agreement on the basis of INO's Bank prime rate plus one per cent.

6.2 Accounting and Payment of Royalties

- 6.2.1 OBZERV shall:
 - 6.2.1.1 keep true and detailed accounts and records of all royalties and any other sums due under this agreement;
 - 6.2.1.2 within thirty days after each Accounting Date deliver to INO a statement certified by its chief financial officer or controller of all royalties and any other sums due for the period ended on that Accounting Date showing the detailed Net Sales and the royalties due;
 - 6.2.1.3 send with the above statement the payment in the amount shown to be due.

- 6.2.2 All payments shall be made in Canadian dollars unless otherwise agreed to in writing by both parties.
- 6.2.3 If OBZERV defaults in payment of the royalties, the amount due shall bear interest on the outstanding amount from the due date to the date of actual payment calculated at a daily rate equivalent to four per cent (4%) above INO's bank prime rate compounded annually as at 31st December in each year.
- 6.2.4 OBZERV shall, at INO's request, provide half-yearly and yearly forecasts of the Net Sales likely to occur and yield royalties under this agreement.

6.3 **Verification**

- 6.3.1 OBZERV shall, at its own expense, obtain and render to INO annually, a certificate by OBZERV's external auditors certifying that the statements produced to INO are a true and detailed record of the Net Sales, and of the royalties.
- 6.3.2 OBZERV shall permit any authorized representative appointed by INO, upon reasonable notice, access to its premises and access to the accounts, records and relevant documentation of OBZERV and shall provide such information and explanations as the representative shall require to audit the statements and to satisfy INO that the provisions of this agreement are being complied with. The representative shall also be permitted to take copies and extracts. If the audit discloses an underpayment to INO of more than five per cent (5%) of the amount due, OBZERV shall promptly, on simple demand, reimburse INO the fees and costs of the representative and the reasonable costs incurred by INO in respect of the audit. Otherwise, the fees and costs incurred by INO in relation with the audit will be assumed by INO.

6.4 **Reimbursement of funds previously advanced to OBZERV by INO**

- 6.4.1 OBZERV acknowledges having received for its benefit from INO funds in the amount of fifty-five thousand seven hundred ninety dollars and eighty-two cents (\$55,790.82) advanced for the purpose of facilitating OBZERV's inception and start-up. As initially agreed, OBZERV hereby refunds said amount in full and without interest to INO.

7. **EQUITY**

- 7.1 If, during the Term of the present Technology Licensing Agreement, OBZERV obtains an investment in equity, equity loan, convertible loan or convertible debenture of an amount of at least one million dollars (\$1,000,000), OBZERV will issue in favor of INO a number of shares with voting and participating rights representing, once deemed and fully paid and issued, a value of one million and seven hundred thousand dollars (\$1,700,000) of the share capital of OBZERV. In such case, the Term of the present Technology Licensing Agreement will automatically become perpetual.

Notwithstanding the terms of the present Section 7.1, if OBZERV becomes bankrupt or insolvent after the execution of the present section, then the present license will automatically become non-exclusive but will remain in force and perpetual.

7.2 In any circumstances during the Term, INO may request from OBZERV the issuance of its shares by giving a written notice to OBZERV. OBZERV will issue to INO a number of shares with voting and participating rights representing one million and seven hundred thousand dollars (\$1,700,000) on the company base value of ten million dollars (\$10,000,000) before the issuance of such shares.

7.3 Notwithstanding the Section 1.17 and 13.1, if OBZERV issues to INO its shares in execution of the present Section 7, then the present Technology Licensing Agreement will automatically become perpetual and non-terminable by INO.

8. **TITLE**

8.1 Title to the Licensed Technology shall always remain exclusively with INO. OBZERV shall not acquire any rights or interest in the Licensed Technology except the right to its specific use pursuant to this Agreement.

9. **IMPROVEMENTS AND CORRECTIONS MADE BY OBZERV**

9.1 OBZERV shall promptly inform INO in writing from time to time of any improvements or corrections made by OBZERV to the INO ATV Laser Imaging Technology during the Term of this Agreement and, as such, shall promptly provide to INO such information and explanations as INO may reasonably require with respect thereto.

9.2 OBZERV and its sub-licensees hereby grant to INO a license to use, for its own research purposes only, the said improvements and corrections which is, royalty free, perpetual, worldwide and non-exclusive. It is understood that the right to make any commercial use in competition with OBZERV is specifically excluded from the grant of this license.

9.3 Where improvements to the Licensed Technology are made by OBZERV at its own expense, all rights and interests in and to any such improvements and corrections, whether patentable or unpatentable, shall vest in OBZERV.

10. **IMPROVEMENTS AND NEW TECHNOLOGY MADE BY INO**

10.1 INO shall promptly inform OBZERV in writing from time to time of its new developments in the Licenses Technology field and, more generally, to the technology disclosed in the patents already issued in connection with the Dalis™ Technology.

10.2 In the event that INO produces improvements to the Licensed Technology, INO will advise OBZERV in writing. These improvements will be automatically subject to this Agreement.

10.3 In the event that INO produces new technology which does not constitutes an improvement but remains associated to the Licensed Technology, OBZERV will have a right to undertake the negotiating of a license to any said new technology

within a period of thirty (30) days after OBZERV has been notified. OBZERV should submit a proposal in writing to INO to have this new technology as part of this Agreement.

- 10.4 A period of ninety (90) days from the date of notification by INO will be allowed for OBZERV and INO to mutually agree on the terms for transferring new technology to OBZERV. Thereafter, INO may enter into negotiations with other parties within the Territory at conditions not less stringent or more favorable than those offered to OBZERV.

11. LITIGATION AND INDEMNITY

- 11.1 In the event of any threatened or actual suit against OBZERV regarding an intellectual property infringement claim from any third party in consequence of the exercise of the right and license granted herein or in the event of infringement of licensed rights by others:

11.1.1 OBZERV shall promptly inform INO;

11.1.2 OBZERV shall not make any admission of liability nor offer or conclude a settlement regarding such claim.

- 11.2 The parties will, for the purpose of jointly determining the steps to be taken in the circumstances, consult with each other and give to one another, free of charge, information of advice.

- 11.3 Neither party shall bind or commit the other party to any course of action which involves liability for legal costs, expenses or damages unless jointly agreed upon.

- 11.4 Should the parties not agree, within a reasonable time, on the steps to be taken under the circumstances described in Section 11.2 above, either party shall be at liberty to defend or take any proceeding.

- 11.5 OBZERV shall have no recourse against INO, whether by way of any suit or action, for any loss, liability, damage, or cost that OBZERV may suffer or incur at any time, by reason of OBZERV's use of the Licensed Technology.

- 11.6 OBZERV shall defend, indemnify and hold INO harmless from any claim, demand, lawsuit, loss, cost, expense, obligation or liability for any personal injury (including death) or loss of or damage to property caused by any negligent or wrongful act of OBZERV, its sub-contractors, agents or employees (OBZERV's Representatives) in connection with or related to OBZERV's or OBZERV's Representatives use of the Technology, provided that OBZERV has carriage and control of the defense and any related settlement negotiations.

12. CONFIDENTIALITY

- 12.1 Except to the extent expressly authorized in this agreement, each party shall, for the duration of the agreement and, upon expiration or early termination of the agreement, for a term of five (5) years from such date, protect all Confidential Information of the other party with a reasonable degree of care, which is at least the degree of care used to protect its own Confidential Information, and shall not

use such Confidential Information for purposes other than those contemplated by this agreement.

For the purposes of this agreement, Confidential Information does not include information which:

- 12.1.1 is now, or hereafter, through no act or failure to act on the part of the recipient, becomes generally known or available to the public without breach of this agreement;
- 12.1.2 is known to the recipient at the time of disclosure of such information or is developed by the recipient independently of such disclosure;
- 12.1.3 is hereafter furnished to the recipient by a third party without that third party being in breach directly or indirectly of an obligation to the disclosing party to keep the information secret; or
- 12.1.4 is disclosed as required by statute or judicial decree.

13. **TERMINATION**

13.1 **Termination by INO**

Except if, in execution of Section 7, OBZERV has issued to INO a number of OBZERV's shares with voting and participating rights, which will render this Agreement perpetual and non-terminable, INO may terminate this agreement by written notice to take effect immediately upon receipt thereof by OBZERV if:

- 13.1.1 OBZERV assigns or purports to assign this agreement or a Related Agreement or any of the rights under this agreement or permits a third party to take possession of the Licensed Technology or of INO's Confidential Information without the prior consent of INO;
- 13.1.2 OBZERV commits or permits a breach of any of its covenants or obligations under this agreement or a Related Agreement and OBZERV has failed to remedy the said breach within thirty (30) days after being required in writing to do so by INO; or
- 13.1.3 OBZERV becomes bankrupt or insolvent, or has a receiving order made against it, or makes an assignment for the benefit of creditors, or an order is made or a resolution is passed for the winding up of OBZERV, or OBZERV takes the benefit of any statute for the time being in force relating to bankrupt or insolvent debtors;

Failure on the part of INO to notify OBZERV of a breach of this agreement, or to terminate this agreement because of such breach, shall not constitute a condonation of the breach or a waiver of the right of INO to terminate this agreement in accordance with the provisions herein contained.

13.2 **Termination by Mutual Agreement**

This agreement may be terminated before its expiration by written mutual agreement of the parties.

13.3 **Termination by OBZERV**

OBZERV may terminate this agreement by written notice to INO if:

13.3.1 INO commits or permits a breach of any of its covenants or obligations under this agreement and INO has failed to remedy the said breach within thirty (30) days after being required in writing to do so by OBZERV; or

13.3.2 INO becomes bankrupt or insolvent, or has a receiving order made against it, or makes an assignment for the benefit of creditors, or an order is made or a resolution is passed for the winding up of INO, or INO takes the benefit of any statute for the time being in force relating to bankrupt or insolvent debtors.

Failure on the part of OBZERV to notify INO of a breach of this agreement, or to terminate this agreement because of such breach, shall not constitute a condonation of the breach or a waiver of the right of OBZERV to terminate this agreement in accordance with the provisions herein contained.

13.4 **Effect of Early Termination**

Upon termination of this agreement in accordance with Section 13, OBZERV shall immediately cease the exploitation of the licenses described and granted upon Section 2.

13.5 **Survival**

Sections 8, 9, 10, 11 and 12 shall survive termination of this Agreement.

14. **GENERAL**

14.1 **Notices**

Where in the agreement any notice, request, direction or other communications is required to be given or made by either party, it shall be in writing and is effective if sent by registered mail, by confirmed facsimile, or delivered in person, postage prepaid or charge prepaid, as the case may be, addressed in the case of OBZERV to:

President
OBZERV Technologies inc
400, boulevard Jean-Lesage, bureau 201
Québec (Québec)
G1K 8W1

Tel: (418) 524-3522
Fax : (418) 524-6745
Email : Deni.Bonnier@obzerv.com

and in the case of INO to:

Sales and Contracts
INO
2740, Einstein
Sainte-Foy, Quebec
G1P 4S4

Tel: 418-657-7006
Fax: 418-657-7009
Email: sales.contracts@ino.ca

or to such address as either party may in the future designate by notice to the other; and any notice, request, direction or other communications shall be deemed to have been given if by registered mail, when the postal receipt is acknowledged by the other party; by courier when the delivery receipt is acknowledged by the other party, or by delivery.

14.2 **Severance**

In the event that any provision of this agreement is invalid, unenforceable, or illegal, then such provision shall be severed from this agreement and this agreement shall be read as if such provision were not part of this agreement.

14.3 **Applicable Law**

This agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws in force in the province of Quebec.

14.4 **Language**

The Parties have requested that this Technology Licensing Agreement and all documents contemplated hereby or relating thereto be drawn in the English Language.

Les Parties ont requis que cette convention ainsi que tous les documents qui y sont envisagés ou s'y rapportant soient rédigés en langue anglaise.

14.5 **Entire Agreement**

This agreement and the Supply Agreement constitute the entire contract between the parties with respect to its subject matter and revokes any previous agreement or understanding between the parties with respect to this subject matter. This agreement may only be amended in writing, signed by both parties, which expressly states the intention to amend this agreement.

14.6 **Waiver**

The failure by any of the parties to assert rights arising from any breach of this agreement or an acceptance of payments shall not be regarded as a waiver of rights. No waiver or toleration implied any continuing or future waivers of rights.

14.7 **Assignment**

Except as expressly provided in this section, no party may assign, transfer or set over this Agreement or any part thereof or any rights therein or thereto without the consent in writing of the other party first had and obtained, which consent may be arbitrarily withheld by the other party in its sole discretion.

The foregoing provisions of this section shall not operate to prevent the consolidation, amalgamation or merger of any one of the parties with any other body corporate or the transfer by any one of the parties of its undertaking and assets as a whole or substantially as a whole to another body corporate lawfully entitled to acquire and operate the same, provided that the resulting body corporate shall, as a part of such consolidation, amalgamation, merger or transfer and in consideration thereof, enter into and execute an agreement supplemental hereto in favour of the other party. Under such supplemental agreement such resulting body corporate shall covenant and undertake to perform and observe each and every covenant, undertaking, obligation and condition herein stipulated on the part of such party to be performed and observed as fully and completely as if it had itself executed this Agreement as a party hereto. Provided further, that such consolidation, amalgamation, merger or transfer shall be made upon such terms and subject to such conditions and at such times and otherwise in such a manner as shall be approved in writing by the other party as not being prejudicial to the interests of the other party hereunder, which approval shall not be unreasonably withheld. It is understood, however, that such consolidation, amalgamation, merger or transfer shall be deemed to be prejudicial to the interest of the other party if it is made with or to a competitor of that other party.

Notwithstanding the foregoing provisions of this section, a party shall have the right to assign its rights hereunder if such assignment is made to an affiliate, provided that such affiliate shall, as a part of such assignment and in consideration thereof, enter into and execute an agreement supplemental hereto in favour of the other party whereby such affiliate shall covenant and undertake to perform and observe each and every covenant, undertaking, obligation and condition herein stipulated of the part of the transferor party to be performed and observed, as fully and completely as if it had itself executed this Agreement as a party hereto.

14.8 **Force Majeure**

Neither party shall be liable for failing to perform its obligations due to circumstances beyond its control. If such lack of performance is continuous for six (6) months, the other party may terminate this agreement on thirty (30) days written notice.

14.9 **Dispute Settlement**

If a dispute arises concerning the agreement, or if a proposed modification of any term of this agreement cannot be agreed between the parties, the parties shall attempt to resolve the matter as follows:

14.9.1 first, by negotiation;

14.9.2 second, by mediation by a mutually acceptable mediator; and

14.9.3 if the dispute cannot be resolved otherwise or if the parties are unable to agree on a mediator, the dispute shall be finally settled by binding arbitration in accordance with the rules of the *Code de Procédure Civile* (Quebec), and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction over the matter.

15. **DISCLAIMER OF AGENCY**

Neither party is the legal representative or agent of the other, nor shall either party have the right or authority to assume, create, or incur any liability or any obligation or any kind, expressed or implied, against, or in the name of or on behalf of the other party.


16. **LEGAL RELATIONSHIP**

This Agreement shall not be construed as creating a partnership, joint venture, agency, or as granting a franchise under either federal or provincial laws. Furthermore, each party to this Agreement expressly acknowledges and agrees that it is not the agent or legal representative of the other and has no authority to create any obligation or incur any expense on behalf of the other.

IN WITNESS WHEREOF the parties have executed this agreement at the date set forth as attested by the signatures of their officers duly authorized for such purposes.

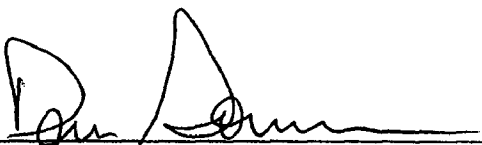
Signed at Quebec the 18 day of June 2003.

INO
(Institut national d'optique /
National Optics Institute)

Per: 
Jean-Guy Paquet
President and CEO


Witness

OBZERV
(Obzerv Technologies Inc.)

Per: 
Denis Bonnier
President


Witness

TRUE COPY


OGILVY RENALDT
S.L.N.C.