

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	Pledge and Security Agreement

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Toter, Incorporated		07/29/2005	CORPORATION: NORTH CAROLINA
Toter International I, LLC		07/29/2005	CORPORATION: NORTH CAROLINA
Toter International II, LLC		07/29/2005	CORPORATION: NORTH CAROLINA

**RECEIVING PARTY DATA**

<b>Name:</b>	JPMorgan Chase Bank, N.A.
<b>Street Address:</b>	1300 East Ninth Street
<b>Internal Address:</b>	13th Floor
<b>City:</b>	Cleveland
<b>State/Country:</b>	OHIO
<b>Postal Code:</b>	44114
<b>Entity Type:</b>	Bank:

**PROPERTY NUMBERS Total: 7**

Property Type	Number	Word Mark
Registration Number:	1780831	ATLAS
Registration Number:	2041187	HANDS FREE
Registration Number:	1713060	HIGHLIFT
Registration Number:	2046457	RUGGED RIM
Registration Number:	1426599	TOTER
Registration Number:	1688757	TRIMLIFT
Registration Number:	1921515	WORKSAVER

**CORRESPONDENCE DATA**

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**CH \$190.00 1780831**

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ATTORNEY DOCKET NUMBER:	0052987-000003
NAME OF SUBMITTER:	Michael L. Dever
Signature:	/Michael L. Dever/
Date:	12/08/2006

**Total Attachments: 47**

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## PLEDGE AND SECURITY AGREEMENT

THIS PLEDGE AND SECURITY AGREEMENT (as it may be amended, restated, supplemented or modified from time to time, the "Security Agreement") is entered into as of July 29, 2005 by and among Toter, Incorporated, a North Carolina corporation ("Toter"), Toter International I, LLC, a North Carolina limited liability company ("Toter I"), Toter International II, LLC, a North Carolina limited liability company ("Toter II" and collectively, the "Grantor"), Toter de México, S. de R.L. de C.V., as depository of the Mexican Equipment (the "Depository"), and JPMorgan Chase Bank, N.A. (the "Lender").

### PRELIMINARY STATEMENT

The Grantor, the other Loan Parties thereto and the Lender are entering into a Credit Agreement dated as of July 29, 2005 (as it may be amended, restated, supplemented or modified from time to time, the "Credit Agreement"). The Grantor is entering into this Security Agreement in order to induce the Lender to enter into and extend credit to the Grantor under the Credit Agreement.

ACCORDINGLY, the Grantor, the Depository and the Lender, hereby agree as follows:

### ARTICLE I DEFINITIONS

1.1. Terms Defined in Credit Agreement. All capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Credit Agreement.

1.2. Terms Defined in UCC. Terms defined in the UCC which are not otherwise defined in this Security Agreement are used herein as defined in the UCC.

1.3. Definitions of Certain Terms Used Herein. As used in this Security Agreement, in addition to the terms defined in the Preliminary Statement, the following terms shall have the following meanings:

"Accounts" shall have the meaning set forth in Article 9 of the UCC.

"Article" means a numbered article of this Security Agreement, unless another document is specifically referenced.

"Assigned Contracts" means, collectively, all of the Grantor's rights and remedies under, and all moneys and claims for money due or to become due to the Grantor under those contracts set forth on Exhibit J hereto, and any other material contracts, and any and all amendments, supplements, extensions, and renewals thereof including all rights and claims of the Grantor now or hereafter existing: (a) under any insurance, indemnities, warranties, and guarantees provided for or arising out of or in connection with any of the foregoing agreements; (b) for any damages arising out of or for breach or default under or in connection with any of the foregoing contracts; (c) to all other amounts from time to time paid or payable under or in connection with any of the foregoing agreements; or (d) to exercise or enforce any and all covenants, remedies, powers and privileges thereunder.

"Chattel Paper" shall have the meaning set forth in Article 9 of the UCC.

"Closing Date" means the date of the Credit Agreement.

"Collateral" shall have the meaning set forth in Article II.

"Collateral Access Agreement" means any landlord waiver or other agreement, in form and substance satisfactory to the Lender, between the Lender and any third party (including any bailee, consignee, customs broker, or other similar Person) in possession of any Collateral or any landlord of any Loan Party for any real property where any Collateral is located, as such landlord waiver or other agreement may be amended, restated, or otherwise modified from time to time.

"Collateral Deposit Account" shall have the meaning set forth in Section 7.1(a).

"Collateral Report" means any certificate (including any Borrowing Base Certificate), report or other document delivered by the Grantor to the Lender with respect to the Collateral pursuant to any Loan Document.

"Collection Account" shall have the meaning set forth in Section 7.1(b).

"Commercial Tort Claims" means any and all existing commercial tort claims of the Grantor.

"Company" and "Companies" shall mean one or more of the entities issuing any of the Pledged Collateral which is or should be described on Exhibit G.

"Control" shall have the meaning set forth in Article 8 or, if applicable, in Section 9-104, 9-105, 9-106 or 9-107 of Article 9 of the UCC.

"Copyrights" means, with respect to any Person, all of such Person's right, title, and interest in and to the following: (a) all copyrights, rights and interests in copyrights, works protectable by copyright, copyright registrations, and copyright applications; (b) all renewals of any of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due and/or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements for any of the foregoing; (d) the right to sue for past, present, and future infringements of any of the foregoing; and (e) all rights corresponding to any of the foregoing throughout the world.

"Default" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"Deposit Account Control Agreement" means an agreement, in form and substance satisfactory to the Lender, among any Loan Party, a banking institution holding such Loan Party's funds, and the Lender with respect to collection and control of all deposits and balances held in a deposit account maintained by any Loan Party with such banking institution.

"Deposit Accounts" shall have the meaning set forth in Article 9 of the UCC.

"Documents" shall have the meaning set forth in Article 9 of the UCC.

"Equipment" shall have the meaning set forth in Article 9 of the UCC, which shall include, but not be limited to, the Mexican Equipment.

"Event of Default" means an event described in Section 5.1.

"Exhibit" refers to a specific exhibit to this Security Agreement, unless another document is specifically referenced.

"Fixtures" shall have the meaning set forth in Article 9 of the UCC.

"Foreign Company" shall mean one or more of the entities issuing any of the Pledged Collateral which is not organized under the laws of any state of the United States of America, which is, or should be, described on Exhibit G.

"General Intangibles" shall have the meaning set forth in Article 9 of the UCC.

"Goods" shall have the meaning set forth in Article 9 of the UCC.

"Instruments" shall have the meaning set forth in Article 9 of the UCC.

"Inventory" shall have the meaning set forth in Article 9 of the UCC.

"Investment Property" shall have the meaning set forth in Article 9 of the UCC.

"Letter-of-Credit Rights" shall have the meaning set forth in Article 9 of the UCC.

"Licenses" means, with respect to any Person, all of such Person's right, title, and interest in and to (a) any and all licensing agreements or similar arrangements in and to its Patents, Copyrights, or Trademarks, (b) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future breaches thereof, and (c) all rights to sue for past, present, and future breaches thereof.

"Lock Boxes" shall have the meaning set forth in Section 7.1(a).

"Lock Box Agreements" shall have the meaning set forth in Section 7.1(a).

"Mexican Equipment" means all the equipment and machinery described on Exhibit K.

"Mexican Premises" means the premises leased by Toter I, located at Parque Industrial Internacional, Acuna, Coahuila, Mexico.

"Patents" means, with respect to any Person, all of such Person's right, title, and interest in and to: (a) any and all patents and patent applications; (b) all inventions and improvements described and

claimed therein; (c) all reissues, divisions, continuations, renewals, extensions, and continuations-in-part thereof; (d) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future infringements thereof; (e) all rights to sue for past, present, and future infringements thereof; and (f) all rights corresponding to any of the foregoing throughout the world

"Pledged Collateral" means all of the Grantor's present and future right, title and interest in and to the following: all Instruments, Securities and other Investment Property, whether or not physically delivered to the Lender pursuant to this Security Agreement.

"Receivables" means the Accounts, Chattel Paper, Documents, Investment Property, Instruments and any other rights or claims to receive money which are General Intangibles or which are otherwise included as Collateral.

"Section" means a numbered section of this Security Agreement, unless another document is specifically referenced.

"Security" has the meaning set forth in Article 8 of the UCC.

"Stock Rights" means all dividends, instruments or other distributions and any other right or property which the Grantor shall receive or shall become entitled to receive for any reason whatsoever with respect to, in substitution for or in exchange for any Equity Interest constituting Collateral, any right to receive an Equity Interest and any right to receive earnings, in which the Grantor now has or hereafter acquires any right, issued by an issuer of such Equity Interest.

"Supporting Obligations" shall have the meaning set forth in Article 9 of the UCC.

"Toter I Equity Interest" means the equity interest owned by Toter I in Toter México that represents 99% of the subscribed and paid capital of Toter México.

"Toter II Equity Interest" means the equity interest owned by Toter II in Toter México that represents 1% of the subscribed and paid capital of Toter México.

"Toter Equity Interest" means, jointly, the Toter I Equity Interest and the Toter II Equity Interest that in conjunction represents 100% of the total subscribed and paid capital of Toter México

"Toter México" means Toter de México, S. de R.L. de C.V.

"Trademarks" means, with respect to any Person, all of such Person's right, title, and interest in and to the following: (a) all trademarks (including service marks), trade names, trade dress, and trade styles and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing; (b) all licenses of the foregoing, whether as licensee or licensor; (c) all renewals of the foregoing; (d) all income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims, and payments for past and future infringements thereof; (e) all rights to sue for past, present, and future infringements of the foregoing, including the right to settle suits involving claims and demands for royalties owing; and (f)

all rights corresponding to any of the foregoing throughout the world

"UCC" means the Uniform Commercial Code, as in effect from time to time, of the State of Ohio or of any other state the laws of which are required as a result thereof to be applied in connection with the attachment, perfection or priority of, or remedies with respect to, Lender's Lien on any Collateral.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

## ARTICLE II GRANT OF SECURITY INTEREST

2.1 Grant of Security Interest. The Grantor hereby pledges, assigns and grants to the Lender, a first priority security interest in all of its right, title and interest in, to and under all personal property and other assets, whether now owned by or owing to, or hereafter acquired by or arising in favor of the Grantor (including under any trade name or derivations thereof), and whether owned or consigned by or to, or leased from or to, the Grantor, and regardless of where located (all of which will be collectively referred to as the "Collateral"), including:

- (i) all Accounts;
- (ii) all Chattel Paper;
- (iii) all Copyrights, Patents and Trademarks;
- (iv) all Documents;
- (v) all Equipment;
- (vi) all Fixtures;
- (vii) all General Intangibles;
- (viii) all Goods;
- (ix) all Instruments;
- (x) all Inventory;
- (xi) all Investment Property;
- (xii) all cash or cash equivalents;
- (xiii) all letters of credit, Letter-of-Credit Rights and Supporting Obligations;
- (xiv) all Deposit Accounts with any bank or other financial institution;
- (xv) all Commercial Tort Claims;
- (xvi) all Assigned Contracts;
- (xvii) and all accessions to, substitutions for and replacements, proceeds (including Stock Rights), insurance proceeds and products of the



foregoing, together with all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related thereto and any General Intangibles at any time evidencing or relating to any of the foregoing;

to secure the prompt and complete payment and performance of the Secured Obligations.

Notwithstanding anything to the contrary contained in this Security Agreement, the Pledged Collateral with respect to any one Foreign Company (other than Toter México) shall not exceed sixty five percent (65%) of the total combined voting power of all classes of capital stock, shares, securities, member interests, partnership interests and other ownership interests entitled to vote of such Foreign Company and this Security Agreement shall not apply to any such stock, shares, securities, member interests, partnership interests or ownership interests which are in excess of such sixty five percent (65%) limitation. To the extent the Lender receives more than sixty five percent (65%) of the total combined voting power of all classes of capital stock, shares, securities, member interests, partnership interests and other ownership interests entitled to vote of any Foreign Company (other than Toter México), the Lender shall return such excess stock, shares, securities, member interests, partnership interests and other ownership interests upon the request of the Grantor.

## 2.2 Grant of Security Interest in Mexican Equipment.

(a) Toter, subject to the release of the first priority asset pledge in favor of Branch Banking and Trust Company ("BBT"), hereby grants in favor of the Lender a pledge of Toter's rights, title and interests in the Mexican Equipment with all their corresponding, rights, titles, interests, powers and privileges in terms of section IV of article 334 of the General Law of Negotiable Instruments and Commercial Transactions (*Ley General de Títulos y Operaciones de Crédito*). The Lender hereby accepts the pledge created hereby. Upon execution and recordation of the release of the pledge granted to BBT, the pledge granted pursuant to this Section 2.2(a) shall be a first priority pledge in the Mexican Equipment.

(b) The Lender hereby appoints and entrusts the Depositary, as depositary, with the possession and custody of the Mexican Equipment in accordance with article 322 and other related articles of the Commercial Code (*Código de Comercio*) of the United Mexican States (the "Mexican Commercial Code"). The Depositary agrees to retain possession and custody of the Mexican Equipment for the purposes provided in this Security Agreement. Pursuant to article 333 of the Mexican Commercial Code, the parties agree that the Depositary shall not receive any amount as consideration for the deposit of the Mexican Equipment.

(c) The Mexican Equipment shall be kept by the Depositary in the Mexican Premises. The Depositary shall not remove the Mexican Equipment from the Mexican Premises except (i) as instructed in writing by the Lender; or (ii) for the repair of the Mexican Equipment as instructed in writing by the Lender. The Depositary shall keep detailed records of the Mexican Equipment, including documents pertaining to the importation of the Mexican Assets to Mexico and all permits and authorizations related to the possession of the Mexican Assets within the Mexican Premises.

(d) The pledge made under the terms of this Security Agreement shall include the Equipment that, after the date hereof, is used and located at the Mexican Premises. Such additional Equipment shall be considered part of the Mexican Equipment and must be included in Exhibit K hereto. For such purposes the Depositary and Toter shall deliver to the Lender every three (3) calendar months a written representation stating that Exhibit K describes all the Mexican Equipment located and used in the Mexican Premises as of such date. In the event additional Equipment is or will be located and used in the Mexican Premises, Toter shall deliver a written notice to the Lender and the Depositary, in such case, Toter, the Depositary and the Lender shall execute an addition to Exhibit K to include such additional Equipment as being part of the Mexican Equipment. Once Toter, the Depositary and the Lender execute the addition to Exhibit K, the Depositary shall receive the possession and custody of such additional Mexican Equipment.

(e) The Depositary shall permit access to the Mexican Premises to inspect the Mexican Assets to the Lender if a written request is delivered by the Lender to the Depositary (with a copy to Toter) with 2 (two) days in advance from the date of the inspection. The Depositary shall deliver any information reasonably requested by the Lender in connection with the Mexican Assets.

(f) Toter shall be responsible for the conservation of the Mexican Assets and shall undertake the obligation to cover all fees, costs and expenses related to the conservation of the Mexican Assets. In the event the Depositary or the Lender pay any such fees, costs or expenses, Toter shall reimburse any amounts paid by any of them.

(g) Within ten (10) days following the date of this Security Agreement, each of Toter and the Depositary shall deliver a power of attorney in terms of Exhibit L to the Lender. Such power of attorney shall enable the Lender to undertake, if an Event of Default occurs, any actions related to the Mexican Equipment, including, but limited to, undertake any necessary actions before customs authorities or any other authorities or governmental agencies in connection with the export of the Mexican Equipment to the United States of America.

(h) The Depositary shall have the possession of the Mexican Equipment and may use it pursuant to its nature and to Depositary's activities, in the ordinary course of business

(i) The Depositary shall carry out its obligations through its general manager as instructed by the Depositary. The current general manager of the Depositary is Jose Luis Ballesteros. In case the general manager of the Depositary is replaced, the Depositary shall give notice to the Lender, within five (5) calendar days, of the name of its new general manager. The Depositary represents that its general manager has, and will have at all times, the necessary powers and authority to represent the Depositary in any action related to the performance and enforcement of Depositary's obligations as pledgee under the pledge created pursuant to this Section 2.2.

### 2.3. Perfection of the Pledge of the Toter Equity Interest.

(a) To the extent permitted by law, Toter I and Toter II hereby grant in favor of the Lender, a first priority pledge of their respective rights, title and interests over Toter I Equity Interest and Toter II Equity Interest, respectively, with all their corresponding, rights, titles, interests, powers and privileges in terms of article 334 of the General Law of Negotiable Instruments and Commercial

Transactions (*Ley General de Títulos y Operaciones de Crédito*). The Lender hereby accepts the pledge created hereby.

(b) Toter I and Toter II hereby agree to instruct the secretary of the Board of Directors of Toter México to register the pledges over Toter I Equity Interest and Toter II Equity Interest, respectively, in the partner's registry book of Toter México and deliver to Lender a certified copy of such registration within 2 (two) business days following the execution of this Security Agreement. The Lender agrees that the execution of this Security Agreement, together with the delivery by Toter I and Toter II of the certified copy of the registry in the partner's registry book of Toter México, will constitute the acknowledgement of the receipt of the Toter I Equity Interest and the Toter II Equity Interest by the Lender, for purposes of Article 337 of the General Law of Negotiable Instruments and Commercial Transactions (*Ley General de Títulos y Operaciones de Crédito*).

(c) Provided that no Event of Default under the Credit Agreement has occurred and is continuing, Toter I and Toter II are hereby authorized to exercise all voting rights pertaining to the Toter I Equity Interest and the Toter II Equity Interest, respectively. Upon the occurrence and during the continuance of an Event of Default under the Credit Agreement, at the election of the Lender, the Lender may revoke the authorization granted above, in which case the Lender shall notify such revocation to Toter I and Toter II and thereafter the exercise of the voting rights conferred by the Toter I Equity Interest and Toter II Equity Interest shall be vested exclusively in the Lender, provided that the Lender shall vote such interests in accordance with, but not limited to, Article 338 of the General Law of Negotiable Instruments and Commercial Transactions (*Ley General de Títulos y Operaciones de Crédito*). The exercise of any voting rights (and any consequences of such vote) by the Lender with respect to the Toter I Equity Interest and Toter II Equity Interest in accordance with this paragraph shall be the sole responsibility of the Lender.

(d) Provided that no Event of Default under the Credit Agreement has occurred and is continuing, Toter I and Toter II shall be entitled to exercise all economic rights associated with respect to the Toter I Equity Interest and Toter II Equity Interest and receive, keep, use and dispose of all distributions thereon, to the extent permitted by the Credit Agreement.

Following the occurrence and during the continuation of any Event of Default under the Credit Agreement, the Lender shall have the right to receive and withhold, subject to this pledge, any dividend in respect of the Toter I Equity Interest and Toter II Equity Interest. The Lender shall deposit any cash dividends that it receives in respect of the Toter I Equity Interest and Toter II Equity Interest in an interest-bearing bank account. In the event that Toter I or Toter II receives any such dividends, it must immediately, but, in any event, within 48 (forty eight) hours of such receipt, deliver them to the Lender in order for them to be subject to the pledge created hereby.

(e) Once each and all of the Obligations of Grantor under the Credit Agreement have been paid in full and timely performed, and all Commitments and Letters of Credit have been terminated pursuant to the Credit Agreement, the Lender will upon the request of the Grantor immediately (A) release and deliver the Toter I Equity Interest and the Toter II Equity Interest in favor of the Toter I and Toter II, respectively; and (B) request the cancellation of the registration of the pledges over the Toter I Equity Interest and the Toter II Equity in the partners registry book of Toter México.

(f) Upon the occurrence of an Event of Default under the Credit Agreement, the Lender,

pursuant to the procedure stated in Article 341 of the General Law of Negotiable Instruments and Commercial Transactions (*Ley General de Títulos y Operaciones de Crédito*), may request the applicable judicial authorization to carry out the sale of the Toter I Equity Interest and the Toter II Equity Interest. Foreclosure and sale of the Toter I Equity Interest and the Toter II Equity Interest shall be subject to the prior authorization of the competent Mexican authorities as required under Mexican laws.

### ARTICLE III REPRESENTATIONS AND WARRANTIES

The Grantor hereby jointly and severally represents and warrants to the Lender that:

3.1. Title, Perfection and Priority. The Grantor has good and valid rights in or the power to transfer the Collateral and good and marketable title to the Collateral with respect to which it has purported to grant a security interest hereunder, free and clear of all Liens except for Liens permitted under Section 4.1(e), and has full power and authority to grant to the Lender the security interest in such Collateral pursuant hereto. When financing statements have been filed in the appropriate offices against the Grantor in the locations listed on Exhibit H, the Lender will have a fully perfected first priority security interest in that Collateral in which a security interest may be perfected by filing, subject only to Liens permitted under Section 4.1(e).

3.2. Type and Jurisdiction of Organization, Organizational and Identification Numbers. The type of entity of the Grantor, its state of organization, the organizational number issued to it by its state of organization and its federal employer identification number are set forth on Exhibit A.

3.3. Principal Location. The Grantor's mailing address and the location of its place of business (if it has only one) or its chief executive office (if it has more than one place of business) are disclosed in Exhibit A; the Grantor has no other places of business except those set forth in Exhibit A.

3.4. Collateral Locations. All of Grantor's locations where Collateral is located are listed on Exhibit A. All of said locations are owned by the Grantor except for locations (i) which are leased by the Grantor as lessee and designated in Part VII(b) of Exhibit A and (ii) at which Inventory is held in a public warehouse or is otherwise held by a bailee or on consignment as designated in Part VII(c) of Exhibit A.

3.5. Deposit Accounts. All of the Grantor's Deposit Accounts are listed on Exhibit B.

3.6. Exact Names. The Grantor's name in which it has executed this Security Agreement is the exact name as it appears in the Grantor's organizational documents, as amended, as filed with the Grantor's jurisdiction of organization. The Grantor has not, during the past five years, been known by or used any other corporate or fictitious name, or been a party to any merger or consolidation, or been a party to any acquisition.

3.7. Letter-of-Credit Rights and Chattel Paper. Exhibit C lists all Letter-of-Credit Rights and Chattel Paper of the Grantor. All action by the Grantor necessary or desirable to protect and perfect the Lender's Lien on each item listed on Exhibit C (including the delivery of all originals and

the placement of a legend on all Chattel Paper as required hereunder) has been duly taken. The Lender will have a fully perfected first priority security interest in the Collateral listed on Exhibit C, subject only to Liens permitted under Section 4.1(e).

### 3.8. Accounts and Chattel Paper

(a) The names of the obligors, amounts owing, due dates and other information with respect to the Accounts and Chattel Paper are and will be correctly stated in all records of the Grantor relating thereto and in all invoices and Collateral Reports with respect thereto furnished to the Lender by the Grantor from time to time. As of the time when each Account or each item of Chattel Paper arises, the Grantor shall be deemed to have represented and warranted that such Account or Chattel Paper, as the case may be, and all records relating thereto, are genuine and in all respects what they purport to be.

(b) With respect to Accounts, except as specifically disclosed on the most recent Collateral Report, (i) all Accounts are Eligible Accounts; (ii) all Accounts represent bona fide sales of Inventory or rendering of services to Account Debtors in the ordinary course of the Grantor's business and are not evidenced by a judgment, Instrument or Chattel Paper; (iii) there are no setoffs, claims or disputes existing or asserted with respect thereto and the Grantor has not made any agreement with any Account Debtor for any extension of time for the payment thereof, any compromise or settlement for less than the full amount thereof, any release of any Account Debtor from liability therefor, or any deduction therefrom except a discount or allowance allowed by Grantor in the ordinary course of its business for prompt payment and disclosed to the Lender; (iv) to Grantor's knowledge, there are no facts, events or occurrences which in any way impair the validity or enforceability thereof or could reasonably be expected to reduce the amount payable thereunder as shown on the Grantor's books and records and any invoices, statements and Collateral Reports with respect thereto; (v) the Grantor has not received any notice of proceedings or actions which are threatened or pending against any Account Debtor which might result in any adverse change in such Account Debtor's financial condition; and (vi) the Grantor has no knowledge that any Account Debtor is unable generally to pay its debts as they become due.

(c) In addition, with respect to all Accounts, (i) the amounts shown on all invoices, statements and Collateral Reports with respect thereto are actually and absolutely owing to the Grantor as indicated thereon and are not in any way contingent; (ii) no payments have been or shall be made thereon except payments immediately delivered to a Lock Box or a Collateral Deposit Account as required pursuant to Section 7.1; and (iii) to the Grantor's knowledge, all Account Debtors have the capacity to contract.

3.9. Inventory. With respect to any Inventory scheduled or listed on the most recent Collateral Report, (a) such Inventory (other than Inventory in transit) is located at one of the Grantor's locations set forth on Exhibit A, (b) no Inventory (other than Inventory in transit) is now, or shall at any time or times hereafter be stored at any other location except as permitted by Section 4.1(g), (c) the Grantor has good, indefeasible and merchantable title to such Inventory and such Inventory is not subject to any Lien or security interest or document whatsoever except for the Lien granted to the Lender, and except for Permitted Encumbrances, (d) except as specifically disclosed in the most recent Collateral Report, such Inventory is Eligible Inventory of good and merchantable quality, free from

any defects, (e) such Inventory is not subject to any licensing, patent, royalty, trademark, trade name or copyright agreements with any third parties which would require any consent of any third party upon sale or disposition of that Inventory or the payment of any monies to any third party upon such sale or other disposition, (f) such Inventory has been produced in accordance with the Federal Fair Labor Standards Act of 1938, as amended, and all rules, regulations and orders thereunder and (g) the completion of manufacture, sale or other disposition of such Inventory by the Lender following an Event of Default shall not require the consent of any Person and shall not constitute a breach or default under any contract or agreement to which the Grantor is a party or to which such property is subject.

3.10. Intellectual Property. The Grantor does not have any interest in, or title to, any Patent, Trademark or Copyright except as set forth in Exhibit D. This Security Agreement is effective to create a valid and continuing Lien and, upon filing of appropriate financing statements in the offices listed on Exhibit H and this Security Agreement with the United States Copyright Office and the United States Patent and Trademark Office, fully perfected first priority security interests in favor of the Lender on the Grantor's Patents, Trademarks and Copyrights, such perfected security interests are enforceable as such as against any and all creditors of and purchasers from the Grantor; and all action necessary or desirable to protect and perfect the Lender's Lien on the Grantor's Patents, Trademarks or Copyrights shall have been duly taken.

3.11. Filing Requirements. None of the Equipment is covered by any certificate of title, except for the vehicles described in Part I of Exhibit E. None of the Collateral is of a type for which security interests or liens may be perfected by filing under any federal statute except for (a) the vehicles described in Part II of Exhibit E and (b) Patents, Trademarks and Copyrights held by the Grantor and described in Exhibit D. The legal description, county and street address of each property on which any Fixtures are located is set forth in Exhibit F together with the name and address of the record owner of each such property

3.12. No Financing Statements, Security Agreements. No financing statement or security agreement describing all or any portion of the Collateral which has not lapsed or been terminated naming the Grantor as debtor has been filed or is of record in any jurisdiction except (a) for financing statements or security agreements naming the Lender as the secured party and (b) as permitted by Section 4.1(e).

3.13. Pledged Collateral.

(a) Exhibit G sets forth a complete and accurate list of all of the Pledged Collateral. The Grantor is the direct, sole beneficial owner and sole holder of record of the Pledged Collateral listed on Exhibit G as being owned by it, free and clear of any Liens, except for the security interest granted to the Lender hereunder. The Grantor further represents and warrants that (i) all Pledged Collateral constituting an Equity Interest has been (to the extent such concepts are relevant with respect to such Pledged Collateral) duly authorized, validly issued, are fully paid and non-assessable and constitutes the following: (A) one hundred percent (100%) of the issued and outstanding capital stock, shares, securities, member interests and partnership interests of each of the Companies which are not Foreign Companies and (B) 100 % of the issued and outstanding Equity Interests with respect to Toter México, and sixty-five (65%) percent of the issued and outstanding capital stock, shares, securities, member interests and partnership interests of each of the Foreign Companies, (ii) with

respect to any certificates delivered to the Lender representing an Equity Interest, either such certificates are Securities as defined in Article 8 of the UCC as a result of actions by the issuer or otherwise, or, if such certificates are not Securities, the Grantor has so informed the Lender so that the Lender may take steps to perfect its security interest therein as a General Intangible, (iii) all Pledged Collateral held by a securities intermediary is covered by a control agreement among the Grantor, the securities intermediary and the Lender pursuant to which the Lender has Control and (iv) all Pledged Collateral which represents Indebtedness owed to the Grantor has been duly authorized, authenticated or issued and delivered by the issuer of such Indebtedness, is the legal, valid and binding obligation of such issuer and such issuer is not in default thereunder.

(b) In addition, (i) none of the Pledged Collateral has been issued or transferred in violation of the securities registration, securities disclosure or similar laws of any jurisdiction to which such issuance or transfer may be subject, (ii) there are existing no options, warrants, calls or commitments of any character whatsoever relating to the Pledged Collateral or which obligate the issuer of any Equity Interest included in the Pledged Collateral to issue additional Equity Interests, and (iii) no consent, approval, authorization, or other action by, and no giving of notice, filing with, any governmental authority or any other Person is required for the pledge by the Grantor of the Pledged Collateral pursuant to this Security Agreement or for the execution, delivery and performance of this Security Agreement by the Grantor, or for the exercise by the Lender of the voting or other rights provided for in this Security Agreement or for the remedies in respect of the Pledged Collateral pursuant to this Security Agreement, except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally.

(c) None of the Pledged Collateral which represents Indebtedness owed to the Grantor is subordinated in right of payment to other Indebtedness or subject to the terms of an indenture.

#### ARTICLE IV COVENANTS

From the date of this Security Agreement, and thereafter until this Security Agreement is terminated, the Grantor hereby jointly and severally covenants and agrees that:

##### 4.1 General.

(a) Collateral Records. The Grantor will maintain complete and accurate books and records with respect to the Collateral, and furnish to the Lender, such reports relating to the Collateral as the Lender shall from time to time request.

(b) Authorization to File Financing Statements; Ratification. The Grantor hereby authorizes the Lender to file, and if requested will deliver to the Lender, all financing statements and other documents and take such other actions as may from time to time be requested by the Lender in order to maintain a first perfected security interest in and, if applicable, Control of, the Collateral. Any financing statement filed by the Lender may be filed in any filing office in any UCC jurisdiction and may (i) indicate the Collateral (1) as all assets of the Grantor or words of similar effect, regardless of

whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC or such jurisdiction, or (2) by any other description which reasonably approximates the description contained in this Security Agreement, and (ii) contain any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (A) whether the Grantor is an organization, the type of organization and any organization identification number issued to the Grantor, and (B) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. The Grantor also agrees to furnish any such information to the Lender promptly upon request. The Grantor also ratifies its authorization for the Lender to have filed in any UCC jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

(c) Further Assurances. The Grantor will, if so requested by the Lender, furnish to the Lender, as often as the Lender requests, statements and schedules further identifying and describing the Collateral and such other reports and information in connection with the Collateral as the Lender may reasonably request, all in such detail as the Lender may specify. The Grantor also agrees to take any and all actions necessary to defend title to the Collateral against all persons and to defend the security interest of the Lender in the Collateral and the priority thereof against any Lien not expressly permitted hereunder.

(d) Disposition of Collateral. The Grantor will not sell, lease or otherwise dispose of the Collateral except for dispositions specifically permitted pursuant to Section 6.05 of the Credit Agreement.

(e) Liens. The Grantor will not create, incur, or suffer to exist any Lien on the Collateral except (i) the security interest created by this Security Agreement, (ii) the BBT lien described in Section 2.2(a), and (iii) other Permitted Encumbrances.

(f) Other Financing Statements. The Grantor will not authorize the filing of any financing statement naming it as debtor covering all or any portion of the Collateral, except as permitted by Section 4.1(e). The Grantor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement without the prior written consent of the Lender, subject to the Grantor's rights under Section 9-509(d)(2) of the UCC.

(g) Locations. The Grantor will not (i) maintain any Collateral at any location other than those locations listed on Exhibit A, (ii) otherwise change, or add to, such locations without the Lender's prior written consent as required by the Credit Agreement (and if the Lender gives such consent, the Grantor will concurrently therewith obtain a Collateral Access Agreement for each such location to the extent required by the Credit Agreement), or (iii) change its principal place of business or chief executive office from the location identified on Exhibit A, other than as permitted by the Credit Agreement.

(h) Compliance with Terms. The Grantor will perform and comply with all obligations in respect of the Collateral and all agreements to which it is a party or by which it is bound relating to the Collateral.



#### 4.2. Receivables.

(a) Certain Agreements on Receivables. The Grantor will not make or agree to make any discount, credit, rebate or other reduction in the original amount owing on a Receivable or accept in satisfaction of a Receivable less than the original amount thereof, except that, prior to the occurrence of an Event of Default, the Grantor may reduce the amount of Accounts arising from the sale of Inventory in accordance with its present policies and in the ordinary course of business.

(b) Collection of Receivables. Except as otherwise provided in this Security Agreement, the Grantor will collect and enforce, at the Grantor's sole expense, all amounts due or hereafter due to the Grantor under the Receivables.

(c) Delivery of Invoices. The Grantor will deliver to the Lender immediately upon its request duplicate invoices with respect to each Account bearing such language of assignment as the Lender shall specify.

(d) Disclosure of Counterclaims on Receivables. If (i) any discount, credit or agreement to make a rebate or to otherwise reduce the amount owing on a Receivable exists or (ii) if, to the knowledge of the Grantor, any dispute, setoff, claim, counterclaim or defense exists or has been asserted or threatened with respect to a Receivable, the Grantor will promptly disclose such fact to the Lender in writing. The Grantor shall send the Lender a copy of each credit memorandum in excess of \$25,000 as soon as issued, and the Grantor shall promptly report each credit memo and each of the facts required to be disclosed to the Lender in accordance with this Section 4.2(d) on the Borrowing Base Certificates submitted by it.

(e) Electronic Chattel Paper. The Grantor shall take all steps necessary to grant the Lender Control of all electronic chattel paper in accordance with the UCC and all "transferable records" as defined in each of the Uniform Electronic Transactions Act and the Electronic Signatures in Global and National Commerce Act.

#### 4.3. Inventory and Equipment.

(a) Maintenance of Goods. The Grantor will do all things necessary to maintain, preserve, protect and keep the Inventory and the Equipment in good repair and working and saleable condition, except for damaged or defective goods arising in the ordinary course of the Grantor's business and except for ordinary wear and tear in respect of the Equipment.

(b) Returned Inventory. If an Account Debtor returns any Inventory to the Grantor when no Event of Default exists, then the Grantor shall promptly determine the reason for such return and shall issue a credit memorandum to the Account Debtor in the appropriate amount. The Grantor shall immediately report to the Lender any return involving an amount in excess of \$25,000. Each such report shall indicate the reasons for the returns and the locations and condition of the returned Inventory. In the event any Account Debtor returns Inventory to the Grantor when an Event of Default exists, the Grantor, upon the request of the Lender, shall: (i) hold the returned Inventory in trust for the Lender; (ii) segregate all returned Inventory from all of its other property; (iii) dispose of the returned

Inventory solely according to the Lender's written instructions; and (iv) not issue any credits or allowances with respect thereto without the Lender's prior written consent. All returned Inventory shall be subject to the Lender's Liens thereon. Whenever any Inventory is returned, the related Account shall be deemed ineligible to the extent of the amount owing by the Account Debtor with respect to such returned Inventory and such returned Inventory shall not be Eligible Inventory.

(c) Inventory Count: Perpetual Inventory System. The Grantor will conduct a physical count of the Inventory at least once per Fiscal Year, and after and during the continuation of an Event of Default, at such other times as the Lender requests. The Grantor, at its own expense, shall deliver to the Lender the results of each physical verification, which the Grantor has made, or has caused any other Person to make on its behalf, of all or any portion of its Inventory. The Grantor will maintain a perpetual inventory reporting system at all times.

(d) Equipment. The Grantor shall promptly inform the Lender of any additions to or deletions from the Equipment which individually exceed \$25,000. The Grantor shall not permit any Equipment to become a fixture with respect to real property or to become an accession with respect to other personal property with respect to which real or personal property the Lender does not have a Lien. The Grantor will not, without the Lender's prior written consent, alter or remove any identifying symbol or number on any of the Grantor's Equipment constituting Collateral.

(e) Titled Vehicles. The Grantor will give the Lender notice of its acquisition of any vehicle covered by a certificate of title and deliver to the Lender, upon request, the original of any vehicle title certificate and provide and/or file all other documents or instruments necessary to have the Lien of the Lender noted on any such certificate or with the appropriate state office.

4.4. Delivery of Instruments, Securities, Chattel Paper and Documents. The Grantor will (a) deliver to the Lender immediately upon execution of this Security Agreement the originals of all Chattel Paper, Securities and Instruments constituting Collateral (if any then exist), (b) hold in trust for the Lender upon receipt and immediately thereafter deliver to the Lender any Chattel Paper, Securities and Instruments constituting Collateral, (c) upon the Lender's request, deliver to the Lender (and thereafter hold in trust for the Lender upon receipt and immediately deliver to the Lender) any Document evidencing or constituting Collateral and (d) upon the Lender's request, deliver to the Lender a duly executed amendment to this Security Agreement, in the form of Exhibit I hereto (the "Amendment"), pursuant to which the Grantor will pledge such additional Collateral to the Lender. The Grantor hereby authorizes the Lender to attach each Amendment to this Security Agreement and agrees that all additional Collateral set forth in such Amendments shall be considered to be part of the Collateral.

4.5. Uncertificated Pledged Collateral. The Grantor will permit the Lender from time to time to cause the appropriate issuers (and, if held with a securities intermediary, such securities intermediary) of uncertificated securities or other types of Pledged Collateral not represented by certificates to mark their books and records with the numbers and face amounts of all such uncertificated securities or other types of Pledged Collateral not represented by certificates and all rollovers and replacements therefor to reflect the Lien of the Lender granted pursuant to this Security Agreement. The Grantor will take any actions necessary to cause (a) the issuers of uncertificated securities which are Pledged Collateral and (b) any securities intermediary which is the holder of any Pledged Collateral, to cause the Lender to have and retain Control over such Pledged Collateral. Without limiting the foregoing, the Grantor will, with respect to Pledged Collateral held with a

securities intermediary, cause such securities intermediary to enter into a control agreement with the Lender, in form and substance satisfactory to the Lender, giving the Lender Control.

4.6. Pledged Collateral.

(a) Changes in Capital Structure of Issuers. Without the prior written consent of the Lender, the Grantor will not (i) permit or suffer any issuer of an Equity Interest constituting Pledged Collateral to dissolve, merge, liquidate, retire any of its Equity Interests or other Instruments or Securities evidencing ownership, reduce its capital, sell or encumber all or substantially all of its assets (except for Permitted Encumbrances and sales of assets permitted pursuant to Section 4.1(d)) or merge or consolidate with any other entity, or (ii) vote any Pledged Collateral in favor of any of the foregoing.

(b) Issuance of Additional Securities. The Grantor will not permit or suffer the issuer of an Equity Interest constituting Pledged Collateral to issue additional Equity Interests, any right to receive the same or any right to receive earnings, except to the Grantor.

(c) Registration of Pledged Collateral. The Grantor will permit any registerable Pledged Collateral to be registered in the name of the Lender or its nominee at any time at the option of the Lender

(d) Exercise of Rights in Pledged Collateral.

(i) Without in any way limiting the foregoing and subject to clause (ii) below, the Grantor shall have the right to exercise all voting rights or other rights relating to the Pledged Collateral for all purposes not inconsistent with this Security Agreement, the Credit Agreement or any other Loan Document; *provided however, that* no vote or other right shall be exercised or action taken which would have the effect of impairing the rights of the Lender in respect of the Pledged Collateral.

(ii) The Grantor will permit the Lender or its nominee at any time after the occurrence of an Event of Default, without notice, to exercise all voting rights or other rights relating to Pledged Collateral, including, without limitation, exchange, subscription or any other rights, privileges, or options pertaining to any Equity Interest or Investment Property constituting Pledged Collateral as if it were the absolute owner thereof.

(iii) The Grantor shall be entitled to collect and receive for its own use all cash dividends and interest paid in respect of the Pledged Collateral to the extent not in violation of the Credit Agreement other than any of the following distributions and payments (collectively referred to as the "Excluded Payments"): (A) dividends and interest paid or payable other than in cash in respect of any Pledged Collateral, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral; (B) dividends and other distributions paid or payable in cash in respect of any Pledged Collateral in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in capital of an issuer; and (C) cash paid, payable or otherwise distributed, in respect of principal of, or in redemption of, or in

exchange for, any Pledged Collateral; *provided however, that* until actually paid, all rights to such distributions shall remain subject to the Lien created by this Security Agreement; and

(iv) All Excluded Payments and all other distributions in respect of any of the Pledged Collateral, whenever paid or made, shall be delivered to the Lender to hold as Pledged Collateral and shall, if received by the Grantor, be received in trust for the benefit of the Lender, be segregated from the other property or funds of the Grantor, and be forthwith delivered to the Lender as Pledged Collateral in the same form as so received (with any necessary endorsement).

#### 4.7. Intellectual Property.

(a) The Grantor will use its best efforts to secure all consents and approvals necessary or appropriate for the assignment to or benefit of the Lender of any License held by the Grantor and to enforce the security interests granted hereunder.

(b) The Grantor shall notify the Lender immediately if it knows or has reason to know that any application or registration relating to any Patent, Trademark or Copyright (now or hereafter existing) may become abandoned or dedicated, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) regarding the Grantor's ownership of any Patent, Trademark or Copyright, its right to register the same, or to keep and maintain the same.

(c) In no event shall the Grantor, either directly or through any agent, employee, licensee or designee, file an application for the registration of any Patent, Trademark or Copyright with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency without giving the Lender prior written notice thereof, and, upon request of the Lender, the Grantor shall execute and deliver any and all security agreements as the Lender may request to evidence the Lender's first priority security interest on such Patent, Trademark or Copyright, and the General Intangibles of the Grantor relating thereto or represented thereby.

(d) The Grantor shall take all actions necessary or requested by the Lender to maintain and pursue each application, to obtain the relevant registration and to maintain the registration of each of the Patents, Trademarks and Copyrights (now or hereafter existing), including the filing of applications for renewal, affidavits of use, affidavits of noncontestability and opposition and interference and cancellation proceedings.

(e) The Grantor shall, unless it shall reasonably determine that such Patent, Trademark or Copyright is in no way material to the conduct of its business or operations, promptly sue for infringement, misappropriation or dilution and to recover any and all damages for such infringement, misappropriation or dilution, and shall take such other actions as the Lender shall deem appropriate under the circumstances to protect such Patent, Trademark or Copyright. In the event that the Grantor institutes suit because any of the Patents, Trademarks or Copyrights constituting Collateral is infringed upon, or misappropriated or diluted by a third party, the Grantor shall comply with Section 4.8

4.8. Commercial Tort Claims. The Grantor shall promptly, and in any event within two Business Days after the same is acquired by it, notify the Lender of any commercial tort claim (as defined in the UCC) acquired by it and, unless the Lender otherwise consents, the Grantor shall enter into an amendment to this Security Agreement, in the form of Exhibit I hereto, granting to Lender a first priority security interest in such commercial tort claim.

4.9. Letter-of-Credit Rights. If the Grantor is or becomes the beneficiary of a letter of credit, the Grantor shall promptly, and in any event within two Business Days after becoming a beneficiary, notify the Lender thereof and cause the issuer and/or confirmation bank to (i) consent to the assignment of any Letter-of-Credit Rights to the Lender and (ii) agree to direct all payments thereunder to a Deposit Account at the Lender or subject to a Deposit Account Control Agreement for application to the Secured Obligations, in accordance with Section 2.17 of the Credit Agreement, all in form and substance reasonably satisfactory to the Lender.

4.10. Federal, State or Municipal Claims. The Grantor will promptly notify the Lender of any Collateral which constitutes a claim against the United States government or any state or local government or any instrumentality or agency thereof, the assignment of which claim is restricted by federal, state or municipal law.

4.11. No Interference. The Grantor agrees that it will not interfere with any right, power and remedy of the Lender provided for in this Security Agreement or now or hereafter existing at law or in equity or by statute or otherwise, or the exercise or beginning of the exercise by the Lender of any one or more of such rights, powers or remedies.

4.12. Insurance. (a) In the event any Collateral is located in any area that has been designated by the Federal Emergency Management Agency as a "Special Flood Hazard Area", the Grantor shall purchase and maintain flood insurance on such Collateral (including any personal property which is located on any real property leased by such Loan Party within a "Special Flood Hazard Area"). The amount of all insurance required by this Section shall at a minimum comply with applicable law, including the Flood Disaster Protection Act of 1973, as amended. All premiums on such insurance shall be paid when due by the Grantor, and copies of the policies delivered to the Lender. If the Grantor fails to obtain any insurance as required by this Section, the Lender may obtain such insurance at the Grantor's expense. By purchasing such insurance, the Lender shall not be deemed to have waived any Default arising from the Grantor's failure to maintain such insurance or pay any premiums therefor.

(b) All insurance policies required under Section 5.09 of the Credit Agreement shall name the Lender as an additional insured or as lender loss payee, as applicable, and shall contain loss payable clauses or mortgagee clauses, through endorsements in form and substance satisfactory to the Lender, which provide that: (i) all proceeds thereunder with respect to any Collateral shall be payable to the Lender; (ii) no such insurance shall be affected by any act or neglect of the insured or owner of the property described in such policy; and (iii) such policy and lender loss payable or mortgagee clauses may be canceled, amended, or terminated only upon at least thirty days prior written notice given to the Lender.

4.13 Collateral Access Agreements. The Grantor shall use commercially reasonable efforts to obtain a Collateral Access Agreement, from the lessor of each leased property, mortgagee of owned property or bailee or consignee with respect to any warehouse, processor or converter facility or other location where Collateral is stored or located, which agreement or letter shall provide access rights, contain a waiver or subordination of all Liens or claims that the landlord, mortgagee, bailee or consignee may assert against the Collateral at that location, and shall otherwise be reasonably satisfactory in form and substance to the Lender. With respect to such locations or warehouse space leased as of the Closing Date and thereafter, if the Lender has not received a Collateral Access Agreement as of the Effective Date (or, if later, as of the date such location is acquired or leased), Grantor's Eligible Inventory at that location shall be excluded from the Borrowing Base. After the Closing Date, no real property or warehouse space shall be leased by the Grantor and no Inventory shall be shipped to a processor or converter under arrangements established after the Closing Date, unless and until a satisfactory Collateral Access Agreement shall first have been obtained with respect to such location and if it has not been obtained, Grantor's Eligible Inventory at that location shall be excluded from the Borrowing Base. The Grantor shall timely and fully pay and perform its obligations under all leases and other agreements with respect to each leased location or third party warehouse where any Collateral is or may be located.

4.14 Deposit Account Control Agreements. The Grantor will provide to the Lender upon the Lender's request, a Deposit Account Control Agreement duly executed on behalf of each financial institution holding a deposit account of the Grantor as set forth in the Security Agreement.

4.15. Change of Name or Location; Change of Fiscal Year. The Grantor shall not (a) change its name as it appears in official filings in the state of its incorporation or organization, (b) change its chief executive office, principal place of business, mailing address, corporate offices or warehouses or locations at which Collateral is held or stored, or the location of its records concerning the Collateral as set forth in the Security Agreement, (c) change the type of entity that it is, (d) change its organization identification number, if any, issued by its state of incorporation or other organization, or (e) change its state of incorporation or organization, in each case, unless the Lender shall have received at least thirty days prior written notice of such change and the Lender shall have acknowledged in writing that either (1) such change will not adversely affect the validity, perfection or priority of the Lender's security interest in the Collateral, or (2) any reasonable action requested by the Lender in connection therewith has been completed or taken (including any action to continue the perfection of any Liens in favor of the Lender in any Collateral), *provided that*, any new location shall be in the continental U.S. The Grantor shall not change its fiscal year which currently ends on December 31.

4.16 Assigned Contracts. The Grantor will use its best efforts to secure all consents and approvals necessary or appropriate for the assignment to or for the benefit of the Lender of any Assigned Contract held by the Grantor and to enforce the security interests granted hereunder. The Grantor shall fully perform all of its obligations under each of the Assigned Contracts, and shall enforce all of its rights and remedies thereunder, in each case, as it deems appropriate in its business judgment; *provided however, that* the Grantor shall not take any action or fail to take any action with respect to its Assigned Contracts which would cause the termination of an Assigned Contract. Without limiting the generality of the foregoing, the Grantor shall take all action necessary or appropriate to permit, and shall not take any action which would have any materially adverse effect upon, the full enforcement of all indemnification rights under its Assigned Contracts. The Grantor shall notify the

Lender in writing, promptly after the Grantor becomes aware thereof, of any event or fact which could give rise to a material claim by it for indemnification under any of its Assigned Contracts, and shall diligently pursue such right and report to the Lender on all further developments with respect thereto. The Grantor shall deposit into a Deposit Account at the Lender or subject to a Deposit Account Control Agreement for application to the Secured Obligations, in accordance with Section 2.17 of the Credit Agreement, all amounts received by the Grantor as indemnification or otherwise pursuant to its Assigned Contracts. If the Grantor shall fail after the Lender's demand to pursue diligently any right under its Assigned Contracts, or if an Event of Default then exists, the Lender may directly enforce such right in its own or the Grantor's name and may enter into such settlements or other agreements with respect thereto as the Lender shall determine. In any suit, proceeding or action brought by the Lender under any Assigned Contract for any sum owing thereunder or to enforce any provision thereof, the Grantor shall indemnify and hold the Lender harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaims, recoupment, or reduction of liability whatsoever of the obligor thereunder arising out of a breach by the Grantor of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing from the Grantor to or in favor of such obligor or its successors. All such obligations of the Grantor shall be and remain enforceable only against the Grantor and shall not be enforceable against the Lender. Notwithstanding any provision hereof to the contrary, the Grantor shall at all times remain liable to observe and perform all of its duties and obligations under its Assigned Contracts, and the Lender's exercise of any of their respective rights with respect to the Collateral shall not release the Grantor from any of such duties and obligations. The Lender shall not be obligated to perform or fulfill any of the Grantor's duties or obligations under its Assigned Contracts or to make any payment thereunder, or to make any inquiry as to the nature or sufficiency of any payment or property received by it thereunder or the sufficiency of performance by any party thereunder, or to present or file any claim, or to take any action to collect or enforce any performance, any payment of any amounts, or any delivery of any property.

## ARTICLE V EVENTS OF DEFAULT AND REMEDIES

5.1. Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

- (a) Any representation or warranty made by or on behalf of the Grantor under or in connection with this Security Agreement shall be materially false as of the date on which made.
- (b) The breach by the Grantor of any of the terms or provisions of Article IV or Article VII.
- (c) The breach by the Grantor (other than a breach which constitutes an Event of Default under any other Section of this Article V) of any of the terms or provisions of this Security Agreement which is not remedied within ten days after such breach.
- (d) The occurrence of any "Event of Default" under, and as defined in, the Credit Agreement.

(e) Any Equity Interest which is included within the Collateral shall at any time constitute a Security or the issuer of any such Equity Interest shall take any action to have such interests treated as a Security unless (i) all certificates or other documents constituting such Security have been delivered to the Lender and such Security is properly defined as such under Article 8 of the UCC of the applicable jurisdiction, whether as a result of actions by the issuer thereof or otherwise, or (ii) the Lender has entered into a control agreement with the issuer of such Security or with a securities intermediary relating to such Security and such Security is defined as such under Article 8 of the UCC of the applicable jurisdiction, whether as a result of actions by the issuer thereof or otherwise.

## 5.2 Remedies

(a) Upon the occurrence of an Event of Default, the Lender may exercise any or all of the following rights and remedies:

(i) those rights and remedies provided in this Security Agreement, the Credit Agreement, or any other Loan Document; *provided that*, this Section 5.2(a) shall not be understood to limit any rights or remedies available to the Lender prior to an Event of Default;

(ii) those rights and remedies available to a secured party under the UCC (whether or not the UCC applies to the affected Collateral) or under any other applicable law (including, without limitation, any law governing the exercise of a bank's right of setoff or bankers' lien) when a debtor is in default under a security agreement;

(iii) give notice of sole control or any other instruction under any Deposit Account Control Agreement or any other control agreement with any securities intermediary and take any action therein with respect to such Collateral;

(iv) without notice (except as specifically provided in Section 8.1 or elsewhere herein), demand or advertisement of any kind to Grantor or any other Person, enter the premises of the Grantor where any Collateral is located (through self-help and without judicial process) to collect, receive, assemble, process, appropriate, sell, lease, assign, grant an option or options to purchase or otherwise dispose of, deliver, or realize upon, the Collateral or any part thereof in one or more parcels at public or private sale or sales (which sales may be adjourned or continued from time to time with or without notice and may take place at the Grantor's premises or elsewhere), for cash, on credit or for future delivery without assumption of any credit risk, and upon such other terms as the Lender may deem commercially reasonable; and

(v) concurrently with written notice to the Grantor, transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Collateral, to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations, to exercise the voting and all other rights as a holder with respect thereto, to collect and receive all cash dividends, interest, principal and other distributions made thereon and to otherwise act with respect to the Pledged Collateral as though the Lender was the outright owner thereof



(b) The Lender may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

(c) The Lender 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 for the benefit of the Lender, the whole or any part of the Collateral so sold, free of any right of equity redemption, which equity redemption the Grantor hereby expressly releases.

(d) Upon the occurrence of an Event of Default, the Lender shall deliver a written notice to the Depositary notifying the occurrence of an Event of Default. The Depositary within the following ten (10) days shall deliver the possession and custody of the Mexican Equipment to the Lender. In such case, the Lender shall be able to sale, lease or dispose the Mexican Collateral in the United States of America. The Lender, with the authority granted through the power of attorney in the form of Exhibit L shall be entitled to export the Mexican Equipment to the United States of America in order to dispose the Collateral.

(e) Until the Lender is able to effect a sale, lease, or other disposition of Collateral, the Lender shall have the right to hold or use Collateral, or any part thereof, to the extent that it deems appropriate for the purpose of preserving Collateral or its value or for any other purpose deemed appropriate by the Lender. The Lender may, if it so elects, seek the appointment of a receiver or keeper to take possession of Collateral and to enforce any of the Lender's remedies, with respect to such appointment without prior notice or hearing as to such appointment.

(f) If, after the Credit Agreement has terminated by its terms and all of the Obligations have been paid in full, there remain Swap Obligations outstanding, the Lender may exercise the remedies provided in this Section 5.2 upon the occurrence of any event which would allow or require the termination or acceleration of any Swap Obligations pursuant to the terms of the Swap Agreement.

(g) Notwithstanding the foregoing, the Lender shall not be required to (i) make any demand upon, or pursue or exhaust any of their rights or remedies against, the Grantor, any other obligor, guarantor, pledgor or any other Person with respect to the payment of the Secured Obligations or to pursue or exhaust any of their rights or remedies with respect to any Collateral therefor or any direct or indirect guarantee thereof, (ii) marshal the Collateral or any guarantee of the Secured Obligations or to resort to the Collateral or any such guarantee in any particular order, or (iii) effect a public sale of any Collateral

(h) The Grantor recognizes that the Lender may be unable to effect a public sale of any or all the Pledged Collateral and may be compelled to resort to one or more private sales thereof in accordance with clause (a) above. The Grantor also acknowledges that any private sale may result in prices and other terms less favorable to the seller than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall not be deemed to have been made in a commercially unreasonable manner solely by virtue of such sale being private. The Lender shall be under no obligation to delay a sale of any of the Pledged Collateral for the period of time necessary to permit the Grantor or the issuer of the Pledged Collateral to register such securities for

public sale under the Securities Act of 1933, as amended, or under applicable state securities laws, even if the Grantor and the issuer would agree to do so.

5.3 Grantor's Obligations Upon Default. Upon the request of the Lender after the occurrence of a Default, the Grantor will:

(a) assemble and make available to the Lender the Collateral and all books and records relating thereto at any place or places specified by the Lender, whether at the Grantor's premises or elsewhere;

(b) permit the Lender, by the Lender's representatives and agents, to enter, occupy and use any premises where all or any part of the Collateral, or the books and records relating thereto, or both, are located, to take possession of all or any part of the Collateral or the books and records relating thereto, or both, to remove all or any part of the Collateral or the books and records relating thereto, or both, and to conduct sales of the Collateral, without any obligation to pay the Grantor for such use and occupancy;

(c) prepare and file, or cause an issuer of Pledged Collateral to prepare and file, with the Securities and Exchange Commission or any other applicable government agency, registration statements, a prospectus and such other documentation in connection with the Pledged Collateral as the Lender may request, all in form and substance satisfactory to the Lender, and furnish to the Lender, or cause an issuer of Pledged Collateral to furnish to the Lender, any information regarding the Pledged Collateral in such detail as the Lender may specify;

(d) take, or cause an issuer of Pledged Collateral to take, any and all actions necessary to register or qualify the Pledged Collateral to enable the Lender to consummate a public sale or other disposition of the Pledged Collateral; and

(e) at its own expense, cause the independent certified public accountants then engaged by the Grantor to prepare and deliver to the Lender, at any time, and from time to time, promptly upon the Lender's request, the following reports with respect to the Grantor: (i) a reconciliation of all Accounts; (ii) an aging of all Accounts; (iii) trial balances; and (iv) a test verification of such Accounts.

5.4 Grant of Intellectual Property License. For the purpose of enabling the Lender to exercise the rights and remedies under this Article V at such time as the Lender shall be lawfully entitled to exercise such rights and remedies, the Grantor hereby (a) grants to the Lender an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to the Grantor) to use, license or sublicense any Intellectual Property Rights now owned or hereafter acquired by the Grantor, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof and (b) irrevocably agrees that the Lender may sell any of the Grantor's Inventory directly to any person, including without limitation persons who have previously purchased the Grantor's Inventory from the Grantor and in connection with any such sale or other enforcement of the Lender's rights under this Security Agreement, may sell Inventory which bears any Trademark owned by or licensed to the Grantor and any Inventory that is covered by

any Copyright owned by or licensed to the Grantor and the Lender may finish any work in process and affix any Trademark owned by or licensed to the Grantor and sell such Inventory as provided herein

## ARTICLE VI ACCOUNT VERIFICATION; ATTORNEY IN FACT; PROXY

6.1. Account Verification. The Lender may, at any time, in the Lender's own name, in the name of a nominee of the Lender, or in the name of the Grantor communicate (by mail, telephone, facsimile or otherwise) with the Account Debtors of such Grantor, parties to contracts with the Grantor and obligors in respect of Instruments of the Grantor to verify with such Persons, to the Lender's satisfaction, the existence, amount, terms of, and any other matter relating to, Accounts, Instruments, Chattel Paper, payment intangibles and/or other Receivables.

6.2. Authorization for Secured Party to Take Certain Action.

(a) The Grantor irrevocably authorizes the Lender at any time and from time to time in the sole discretion of the Lender and appoints the Lender as its attorney in fact (i) to execute on behalf of the Grantor as debtor and to file financing statements necessary or desirable in the Lender's sole discretion to perfect and to maintain the perfection and priority of the Lender's security interest in the Collateral, (ii) to endorse and collect any cash proceeds of the Collateral, (iii) to file a carbon, photographic or other reproduction of this Security Agreement or any financing statement with respect to the Collateral as a financing statement and to file any other financing statement or amendment of a financing statement (which does not add new collateral or add a debtor) in such offices as the Lender in its sole discretion deems necessary or desirable to perfect and to maintain the perfection and priority of the Lender's security interest in the Collateral, (iv) to contact and enter into one or more agreements with the issuers of uncertificated securities which are Pledged Collateral or with securities intermediaries holding Pledged Collateral as may be necessary or advisable to give the Lender Control over such Pledged Collateral, (v) to apply the proceeds of any Collateral received by the Lender to the Secured Obligations as provided in Section 7.3, (vi) to discharge past due taxes, assessments, charges, fees or Liens on the Collateral (except for such Liens as are specifically permitted hereunder), (vii) to contact Account Debtors for any reason, (viii) to demand payment or enforce payment of the Receivables in the name of the Lender or the Grantor and to endorse any and all checks, drafts, and other instruments for the payment of money relating to the Receivables, (ix) to sign the Grantor's name on any invoice or bill of lading relating to the Receivables, drafts against any Account Debtor of the Grantor, assignments and verifications of Receivables, (x) to exercise all of the Grantor's rights and remedies with respect to the collection of the Receivables and any other Collateral, (xi) to settle, adjust, compromise, extend or renew the Receivables, (xii) to settle, adjust or compromise any legal proceedings brought to collect Receivables, (xiii) to prepare, file and sign the Grantor's name on a proof of claim in bankruptcy or similar document against any Account Debtor of the Grantor, (xiv) to prepare, file and sign the Grantor's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with the Receivables, (xv) to change the address for delivery of mail addressed to the Grantor to such address as the Lender may designate and to receive, open and dispose of all mail addressed to the Grantor, and (xvi) to do all other acts and things necessary to carry out this Security Agreement; and the Grantor agrees to reimburse the Lender on demand for any payment made or any expense incurred by the Lender in connection with any of the foregoing; *provided that*, this

authorization shall not relieve the Grantor of any of its obligations under this Security Agreement or under the Credit Agreement

(b) All acts of said attorney or designee are hereby ratified and approved. The powers conferred on the Lender, under this Section 6.2 are solely to protect the Lender's interests in the Collateral and shall not impose any duty upon the Lender to exercise any such powers.

6.3. Proxy. THE GRANTOR HEREBY IRREVOCABLY CONSTITUTES AND APPOINTS THE LENDER AS THE PROXY AND ATTORNEY-IN-FACT (AS SET FORTH IN SECTION 6.2 ABOVE) OF THE GRANTOR WITH RESPECT TO THE PLEDGED COLLATERAL, INCLUDING THE RIGHT TO VOTE SUCH PLEDGED COLLATERAL, WITH FULL POWER OF SUBSTITUTION TO DO SO. IN ADDITION TO THE RIGHT TO VOTE ANY SUCH PLEDGED COLLATERAL, THE APPOINTMENT OF THE LENDER AS PROXY AND ATTORNEY-IN-FACT SHALL INCLUDE THE RIGHT TO EXERCISE ALL OTHER RIGHTS, POWERS, PRIVILEGES AND REMEDIES TO WHICH A HOLDER OF SUCH PLEDGED COLLATERAL WOULD BE ENTITLED (INCLUDING GIVING OR WITHHOLDING WRITTEN CONSENTS OF SHAREHOLDERS, CALLING SPECIAL MEETINGS OF SHAREHOLDERS AND VOTING AT SUCH MEETINGS). SUCH PROXY SHALL BE EFFECTIVE, AUTOMATICALLY AND WITHOUT THE NECESSITY OF ANY ACTION (INCLUDING ANY TRANSFER OF ANY SUCH PLEDGED COLLATERAL ON THE RECORD BOOKS OF THE ISSUER THEREOF) BY ANY PERSON (INCLUDING THE ISSUER OF SUCH PLEDGED COLLATERAL OR ANY OFFICER OR AGENT THEREOF), UPON THE OCCURRENCE OF A DEFAULT.

6.4. Nature of Appointment; Limitation of Duty. THE APPOINTMENT OF THE LENDER AS PROXY AND ATTORNEY-IN-FACT IN THIS ARTICLE VI IS COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE UNTIL THE DATE ON WHICH THIS SECURITY AGREEMENT IS TERMINATED IN ACCORDANCE WITH SECTION 8.14. NOTWITHSTANDING ANYTHING CONTAINED HEREIN, NEITHER THE LENDER NOR ANY OF ITS RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES SHALL HAVE ANY DUTY TO EXERCISE ANY RIGHT OR POWER GRANTED HEREUNDER OR OTHERWISE OR TO PRESERVE THE SAME AND SHALL NOT BE LIABLE FOR ANY FAILURE TO DO SO OR FOR ANY DELAY IN DOING SO, EXCEPT IN RESPECT OF DAMAGES ATTRIBUTABLE SOLELY TO THEIR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION; PROVIDED THAT, IN NO EVENT SHALL THEY BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES.

## ARTICLE VII COLLECTION AND APPLICATION OF COLLATERAL PROCEEDS; DEPOSIT ACCOUNTS

### 7.1. Collection of Receivables.

(a) On or before the Closing Date, the Grantor shall (a) execute and deliver to the Lender Deposit Account Control Agreements for each Deposit Account maintained by the Grantor into

which all cash, checks or other similar payments relating to or constituting payments made in respect of Receivables will be deposited (a "Collateral Deposit Account"), which Collateral Deposit Accounts are identified as such on Exhibit B, and (b) establish lock box service (the "Lock Boxes") with the bank(s) set forth in Exhibit B, which lock boxes shall be subject to irrevocable lockbox agreements in the form provided by or otherwise acceptable to the Lender and shall be accompanied by an acknowledgment by the bank where the Lock Box is located of the Lien of the Lender granted hereunder and of irrevocable instructions to wire all amounts collected therein to the Collection Account (a "Lock Box Agreement"). After the Closing Date, the Grantor will comply with the terms of Section 7.2.

(b) The Grantor shall direct all of its Account Debtors to forward payments directly to Lock Boxes subject to Lock Box Agreements. The Lender shall have sole access to the Lock Boxes at all times and the Grantor shall take all actions necessary to grant the Lender such sole access. At no time shall the Grantor remove any item from the Lock Box or from a Collateral Deposit Account without the Lender's prior written consent. If the Grantor should refuse or neglect to notify any Account Debtor to forward payments directly to a Lock Box subject to a Lock Box Agreement after notice from the Lender, the Lender shall, be entitled to make such notification directly to Account Debtor. If notwithstanding the foregoing instructions, the Grantor receives any proceeds of any Receivables, the Grantor shall receive such payments as the Lender's trustee, and shall immediately deposit all cash, checks or other similar payments related to or constituting payments made in respect of Receivables received by it to a Collateral Deposit Account. All funds deposited into any Lock Box subject to a Lock Box Agreement or a Collateral Deposit Account will be swept on a daily basis into a collection account maintained by the Grantor with the Lender (the "Collection Account"). The Lender shall hold and apply funds received into the Collection Account as provided by the terms of Section 7.3.

7.2. Covenant Regarding New Deposit Accounts; Lock Boxes. Before opening or replacing any Collateral Deposit Account, other Deposit Account, or establishing a new Lock Box, the Grantor shall (a) obtain the Lender's consent in writing to the opening of such Deposit Account or Lock Box, and (b) cause each bank or financial institution in which it seeks to open (i) a Deposit Account, to enter into a Deposit Account Control Agreement with the Lender in order to give the Lender Control of such Deposit Account, or (ii) a Lock Box, to enter into a Lock Box Agreement with the Lender in order to give the Lender Control of the Lock Box.

7.3. Application of Proceeds; Deficiency. All amounts deposited in the Collection Account shall be deemed received by the Lender in accordance with Section 2.17 of the Credit Agreement and shall, after having been credited in immediately available funds to the Collection Account, be applied (and allocated) by Lender in accordance with Section 2.09(b) of the Credit Agreement. The Lender shall require all other cash proceeds of the Collateral, which are not required to be applied to the Obligations pursuant to Section 2.10 of the Credit Agreement, to be deposited in a special non-interest bearing cash collateral account with the Lender and held there as security for the Secured Obligations. The Grantor shall have no control whatsoever over said cash collateral account. Any such proceeds of the Collateral shall be applied in the order set forth in Section 2.17 of the Credit Agreement unless a court of competent jurisdiction shall otherwise direct. The balance, if any, after all of the Secured Obligations have been satisfied, shall be deposited by the Lender into the Grantor's general operating account with the Lender. The Grantor shall remain liable for any deficiency if the proceeds of any sale

or disposition of the Collateral are insufficient to pay all Secured Obligations, including any attorneys' fees and other expenses incurred by the Lender or any Lender to collect such deficiency.

## ARTICLE VIII GENERAL PROVISIONS

8.1. Waivers. The Grantor hereby waives notice of the time and place of any public sale or the time after which any private sale or other disposition of all or any part of the Collateral may be made. To the extent such notice may not be waived under applicable law, any notice made shall be deemed reasonable if sent to the Grantor, addressed as set forth in Article IX, at least ten days prior to (i) the date of any such public sale or (ii) the time after which any such private sale or other disposition may be made. To the maximum extent permitted by applicable law, the Grantor waives all claims, damages, and demands against the Lender arising out of the repossession, retention or sale of the Collateral, except such as arise solely out of the gross negligence or willful misconduct of the Lender as finally determined by a court of competent jurisdiction. To the extent it may lawfully do so, the Grantor absolutely and irrevocably waives and relinquishes the benefit and advantage of, and covenants not to assert against the Lender, any valuation, stay, appraisal, extension, moratorium, redemption or similar laws and any and all rights or defenses it may have as a surety now or hereafter existing which, but for this provision, might be applicable to the sale of any Collateral made under the judgment, order or decree of any court, or privately under the power of sale conferred by this Security Agreement, or otherwise. Except as otherwise specifically provided herein, the Grantor hereby waives presentment, demand, protest or any notice (to the maximum extent permitted by applicable law) of any kind in connection with this Security Agreement or any Collateral.

8.2. Limitation on the Lender's Duty with Respect to the Collateral. The Lender shall have no obligation to clean-up or otherwise prepare the Collateral for sale. The Lender shall use reasonable care with respect to the Collateral in its possession or under its control. The Lender shall not have any other duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee of the Lender, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto. To the extent that applicable law imposes duties on the Lender to exercise remedies in a commercially reasonable manner, the Grantor acknowledges and agrees that it is commercially reasonable for the Lender (i) to fail to incur expenses deemed significant by the Lender to prepare Collateral for disposition or otherwise to transform raw material or work in process into finished goods or other finished products for disposition, (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (iii) to fail to exercise collection remedies against Account Debtors or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, (iv) to exercise collection remedies against Account Debtors and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (vi) to contact other Persons, whether or not in the same business as the Grantor, for expressions of interest in acquiring all or any portion of such Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (viii) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that

match buyers and sellers of assets, (ix) to dispose of assets in wholesale rather than retail markets, (x) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (xi) to purchase insurance or credit enhancements to insure the Lender against risks of loss, collection or disposition of Collateral or to provide to the Lender a guaranteed return from the collection or disposition of Collateral, or (xii) to the extent deemed appropriate by the Lender, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Lender in the collection or disposition of any of the Collateral. The Grantor acknowledges that the purpose of this Section 8.2 is to provide non-exhaustive indications of what actions or omissions by the Lender would be commercially reasonable in the Lender's exercise of remedies against the Collateral and that other actions or omissions by the Lender shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 8.2. Without limitation upon the foregoing, nothing contained in this Section 8.2 shall be construed to grant any rights to the Grantor or to impose any duties on the Lender that would not have been granted or imposed by this Security Agreement or by applicable law in the absence of this Section 8.2.

8.3. Compromises and Collection of Collateral. The Grantor and the Lender recognize that setoffs, counterclaims, defenses and other claims may be asserted by obligors with respect to certain of the Receivables, that certain of the Receivables may be or become uncollectible in whole or in part and that the expense and probability of success in litigating a disputed Receivable may exceed the amount that reasonably may be expected to be recovered with respect to a Receivable. In view of the foregoing, the Grantor agrees that the Lender may at any time and from time to time, if an Event of Default has occurred and is continuing, compromise with the obligor on any Receivable, accept in full payment of any Receivable such amount as the Lender in its sole discretion shall determine or abandon any Receivable, and any such action by the Lender shall be commercially reasonable so long as the Lender acts in good faith based on information known to it at the time it takes any such action.

8.4. Secured Party Performance of Debtor Obligations. Without having any obligation to do so, the Lender may perform or pay any obligation which the Grantor has agreed to perform or pay in this Security Agreement and the Grantor shall reimburse the Lender for any amounts paid by the Lender pursuant to this Section 8.4. The Grantor's obligation to reimburse the Lender pursuant to the preceding sentence shall be a Secured Obligation payable on demand.

8.5. Specific Performance of Certain Covenants. The Grantor acknowledges and agrees that a breach of any of the covenants contained in Sections 4.1(d), 4.1(e), 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.12, 4.13, 4.14, 4.15, 4.16, 5.3, or 8.7 or in Article VII will cause irreparable injury to the Lender, that the Lender has no adequate remedy at law in respect of such breaches and therefore agrees, without limiting the right of the Lender to seek and obtain specific performance of other obligations of the Grantor contained in this Security Agreement, that the covenants of the Grantor contained in the Sections referred to in this Section 8.5 shall be specifically enforceable against the Grantor.

8.6. Dispositions Not Authorized. The Grantor is not authorized to sell or otherwise dispose of the Collateral except as set forth in Section 4.1(d) and notwithstanding any course of dealing between the Grantor and the Lender or other conduct of the Lender, no authorization to sell or otherwise dispose of the Collateral (except as set forth in Section 4.1(d)) shall be binding upon the Lender unless such authorization is in writing signed by the Lender.

8.7. No Waiver; Amendments; Cumulative Remedies No delay or omission of the Lender to exercise any right or remedy granted under this Security Agreement shall impair such right or remedy or be construed to be a waiver of any Default or an acquiescence therein, and any single or partial exercise of any such right or remedy shall not preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver, amendment or other variation of the terms, conditions or provisions of this Security Agreement whatsoever shall be valid unless in writing signed by the Lender and then only to the extent in such writing specifically set forth. All rights and remedies contained in this Security Agreement or by law afforded shall be cumulative and all shall be available to the Lender until the Secured Obligations have been paid in full.

8.8. Limitation by Law; Severability of Provisions All rights, remedies and powers provided in this Security Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Security Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Security Agreement invalid, unenforceable or not entitled to be recorded or registered, in whole or in part. Any provision in this Security Agreement that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of this Security Agreement are declared to be severable.

8.9. Reinstatement This Security Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against the Grantor for liquidation or reorganization, should the Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of the Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

8.10. Benefit of Agreement The terms and provisions of this Security Agreement shall be binding upon and inure to the benefit of the Grantor, the Lender and their respective successors and assigns (including all persons who become bound as a debtor to this Security Agreement), except that the Grantor shall not have the right to assign its rights or delegate its obligations under this Security Agreement or any interest herein, without the prior written consent of the Lender. No sales of participations, assignments, transfers, or other dispositions of any agreement governing the Secured Obligations or any portion thereof or interest therein shall in any manner impair the Lien granted to the Lender hereunder.

8.11. Survival of Representations All representations and warranties of the Grantor contained in this Security Agreement shall survive the execution and delivery of this Security Agreement.



8.12. Taxes and Expenses Any taxes (including income taxes) payable or ruled payable by Federal or State authority in respect of this Security Agreement shall be paid by the Grantor, together with interest and penalties, if any. The Grantor shall reimburse the Lender for any and all out-of-pocket expenses and internal charges (including reasonable attorneys', auditors' and accountants' fees and reasonable time charges of attorneys, paralegals, auditors and accountants who may be employees of the Lender) paid or incurred by the Lender in connection with the preparation, execution, delivery, administration, collection and enforcement of this Security Agreement and in the audit, analysis, administration, collection, preservation or sale of the Collateral (including the expenses and charges associated with any periodic or special audit of the Collateral). Any and all costs and expenses incurred by the Grantor in the performance of actions required pursuant to the terms hereof shall be borne solely by the Grantor.

8.13. Interpretation. In this Security Agreement, unless the Lender and the Grantor otherwise agree in writing, the singular includes the plural and the plural the singular; words importing any gender include the other genders; references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; the word "or" shall be deemed to include "and/or", the words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; references to articles, sections (or subdivisions of sections) or exhibits are to those of this Security Agreement; and references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by the terms of this Security Agreement. The title of and section headings in this Security Agreement are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Security Agreement. If this Security Agreement is executed by more than one Grantor, the obligations of such persons or entities will be joint and several.

8.14. Termination. This Security Agreement shall continue in effect (notwithstanding the fact that from time to time there may be no Secured Obligations outstanding) until (a) the Credit Agreement has terminated pursuant to its express terms and (b) all of the Secured Obligations have been indefeasibly paid and performed in full (or with respect to any outstanding Letters of Credit, a cash deposit or Supporting Letter of Credit has been delivered to the Lender as required by the Credit Agreement) and no commitments of the Lender which would give rise to any Secured Obligations are outstanding.

8.15. Entire Agreement. This Security Agreement embodies the entire agreement and understanding between the Grantor and the Lender relating to the Collateral and supersedes all prior agreements and understandings between the Grantor and the Lender relating to the Collateral.

8.16. **CHOICE OF LAW. THIS SECURITY AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS (AND NOT THE LAW OF CONFLICTS) OF THE STATE OF OHIO, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS; PROVIDED HOWEVER, THAT THE PERFECTION OF LIENS ON THE MEXICAN EQUIPMENT AND THE TOTER I EQUITY INTERESTS AND THE TOTER II EQUITY INTERESTS SHALL BE GOVERNED BY THE APPLICABLE LAWS OF MEXICO REFERENCED IN SECTION 2.2 AND SECTION 2.3 HEREOF.**

8.17. CONSENT TO JURISDICTION. EXCEPT FOR THE SECURITY INTERESTS CREATED UNDER MEXICAN LAW, THE GRANTOR HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR OHIO STATE COURT SITTING IN CUYAHOGA COUNTY, OHIO IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT OR ANY OTHER LOAN DOCUMENT AND THE GRANTOR HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES TO THE EXTENT PERMITTED BY LAW ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE LENDER TO BRING PROCEEDINGS AGAINST THE GRANTOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY THE GRANTOR AGAINST THE LENDER OR ANY AFFILIATE OF THE LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS SECURITY AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN CUYAHOGA COUNTY, OHIO. THE GRANTOR AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS (OR ANY POLITICAL SUBDIVISION THEREOF) BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW, RULE, OR REGULATION.

8.18. WAIVER OF JURY TRIAL. THE GRANTOR AND THE LENDER HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS SECURITY AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER.

8.19. Indemnity. The Grantor hereby agrees to indemnify the Lender, and its successors, assigns, agents and employees, from and against any and all liabilities, damages, penalties, suits, costs, and expenses of any kind and nature (including, without limitation, all expenses of litigation or preparation therefor whether or not the Lender is a party thereto) imposed on, incurred by or asserted against the Lender, or its successors, assigns, agents and employees, in any way relating to or arising out of this Security Agreement, or the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, possession, use, operation, condition, sale, return or other disposition of any Collateral (including, without limitation, latent and other defects, whether or not discoverable by the Lender or the Grantor, and any claim for Patent, Trademark or Copyright infringement)

8.20 Counterparts; Telecopy Signatures. This Security Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Security Agreement by signing any such counterpart. The Grantor acknowledges and agrees that a telecopy transmission to the Lender of the signature pages hereof

purporting to be signed on behalf of the Grantor shall constitute effective and binding execution and delivery hereof by the Grantor.

8 21. Lien Absolute. All rights of the Lender hereunder, and all obligations of Grantor hereunder, shall be absolute and unconditional irrespective of:

(a) any lack of validity or enforceability of the Credit Agreement, any other Loan Document or any other agreement or instrument governing or evidencing any Secured Obligations;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any part of the Secured Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, any other Loan Document or any other agreement or instrument governing or evidencing any Secured Obligations;

(c) any exchange, release or non-perfection of any other Collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Secured Obligations;

(d) the insolvency of any Person; or

(e) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Grantor.

8 22. Release. The Grantor consents and agrees that the Lender may at any time, or from time to time, in its discretion:

(a) renew, extend or change the time of payment, and/or the manner, place or terms of payment of all or any part of the Secured Obligations; and

(b) exchange, release and/or surrender all or any of the Collateral (including the Pledged Collateral), or any part thereof, by whomsoever deposited, which is now or may hereafter be held by the Lender in connection with all or any of the Secured Obligations; all in such manner and upon such terms as the Lender may deem proper, and without notice to or further assent from the Grantor, it being hereby agreed that the Grantor shall be and remain bound upon this Security Agreement, irrespective of the value or condition of any of the Collateral, and notwithstanding any such change, exchange, settlement, compromise, surrender, release, renewal or extension, and notwithstanding also that the Secured Obligations may, at any time, exceed the aggregate principal amount thereof set forth in the Credit Agreement, or any other agreement governing any Secured Obligations.

## ARTICLE IX NOTICES

9.1. Sending Notices. Any notice required or permitted to be given under this Security Agreement shall be sent by United States mail, telecopier, personal delivery or nationally established overnight courier service, and shall be deemed received (a) when received, if sent by hand or overnight

courier service, or mailed by certified or registered mail notices or (b) when sent, if sent by telecopier (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient), in each case addressed to the Grantor at the address set forth on Exhibit A as its principal place of business, and to the Lender at the address set forth in accordance with Section 8.01 of the Credit Agreement.

9.2. Change in Address for Notices. Each of the Grantor and the Lender may change the address for service of notice upon it by a notice in writing to the other parties.

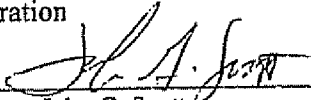
**[SIGNATURE PAGES FOLLOW]**

**[SIGNATURE PAGE TO PLEDGE AND SECURITY AGREEMENT]**

IN WITNESS WHEREOF, the Grantor and the Lender have executed this Security Agreement as of the date first above written

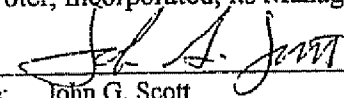
GRANTOR:

TOTER, INCORPORATED, a North Carolina corporation

By:   
Name: John G. Scott  
Title: President and CEO

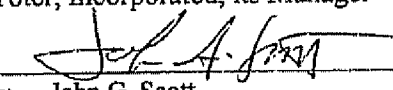
TOTER INTERNATIONAL I LLC, a North Carolina limited liability company

By: Toter, Incorporated, its Manager

By:   
Name: John G. Scott  
Title: President and CEO

TOTER INTERNATIONAL II LLC, a North Carolina limited liability company,

By: Toter, Incorporated, its Manager

By:   
Name: John G. Scott  
Title: President and CEO

DEPOSITARY:

TOTER DE MÉXICO, S DE R.L DE C.V.

By: \_\_\_\_\_  
Name: David Robert Grogan  
Title: Chairman of the Board of Managers

[SIGNATURE PAGE TO PLEDGE AND SECURITY AGREEMENT]

IN WITNESS WHEREOF, the Grantor and the Lender have executed this Security Agreement as of the date first above written.

GRANTOR:

TOTER, INCORPORATED, a North Carolina corporation

By: \_\_\_\_\_  
Name: John G. Scott  
Title: President and CEO

TOTER INTERNATIONAL I LLC, a North Carolina limited liability company

By: Toter, Incorporated, its Manager

By: \_\_\_\_\_  
Name: John G. Scott  
Title: President and CEO

TOTER INTERNATIONAL II LLC, a North Carolina limited liability company,

By: Toter, Incorporated, its Manager

By: \_\_\_\_\_  
Name: John G. Scott  
Title: President and CEO

DEPOSITARY:

TOTER DE MÉXICO, S. DE R.L. DE C.V.

By: David Robert Grogan  
Name: David Robert Grogan  
Title: Chairman of the Board of Managers

[SIGNATURE PAGE TO PLEDGE AND SECURITY AGREEMENT]

LENDER:

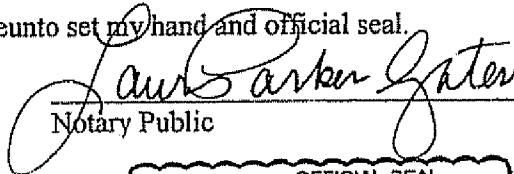
JPMORGAN CHASE BANK, N.A.

By: Christy D. Zamboni  
Name: CHRISTOPHER J. ZAMIE  
Title: VICE PRESIDENT

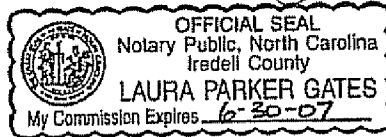
STATE OF North Carolina )  
 ) SS:  
COUNTY OF Iredell )

On this 27<sup>th</sup> day of July, 2005, before me, a notary public, personally appeared John G. Scott, who acknowledged himself/herself to be the President and CEO of Toter, Incorporated, a North Carolina corporation, (the "Company") and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself/herself as such officer in said Company as the free act and deed of said Company and as his/her free act and deed individually and as such officer

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
\_\_\_\_\_  
Notary Public

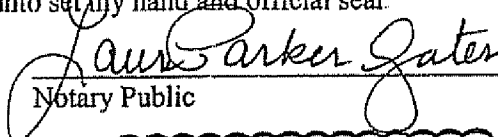
My commission expires:



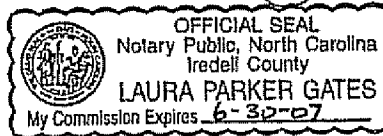
STATE OF North Carolina )  
 ) SS:  
COUNTY OF Iredell )

On this 27<sup>th</sup> day of July, 2005, before me, a notary public, personally appeared John G. Scott, who acknowledged himself/herself to be the President and CEO of Toter, Incorporated, a North Carolina corporation, the Manager of Toter International I LLC, a North Carolina limited liability company, (the "Company") and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself/herself as such officer in said Company as the free act and deed of said Company and as his/her free act and deed individually and as such officer

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
\_\_\_\_\_  
Notary Public

My commission expires:





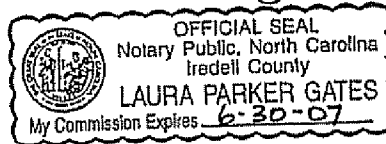
STATE OF North Carolina )  
 ) SS:  
COUNTY OF Iredell )

On this 27<sup>th</sup> day of July, 2005, before me, a notary public, personally appeared John G. Scott, who acknowledged himself/herself to be the President and CEO of Toter Incorporated, a North Carolina corporation, (the "Company") the Manager of Toter International II LLC, a North Carolina limited liability company, and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself/herself as such officer in said Company as the free act and deed of said Company and as his/her free act and deed individually and as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Laura Parker Gates  
Notary Public

My commission expires:



STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of July, 2005, before me, a notary public, personally appeared David Robert Grogan, who acknowledged himself/herself to be the Chairman of the Board of Managers of Toter de México, S de R L de C.V, a Mexican company (the "Company") and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself/herself as such officer in said Company as the free act and deed of said Company and as his/her free act and deed individually and as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires

STATE OF \_\_\_\_\_ )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of July, 2005, before me, a notary public, personally appeared John G. Scott, who acknowledged himself/herself to be the President and CEO of Toter Incorporated, a North Carolina corporation, (the "Company") the Manager of Toter International II LLC, a North Carolina limited liability company, and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself/herself as such officer in said Company as the free act and deed of said Company and as his/her free act and deed individually and as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires:

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF ONEIDA )

On this 29 day of July, 2005, before me, a notary public, personally appeared David Robert Grogan, who acknowledged himself/herself to be the Chairman of the Board of Managers of Toter de México, S. de R.L. de C.V., a Mexican company (the "Company") and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself/herself as such officer in said Company as the free act and deed of said Company and as his/her free act and deed individually and as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Cynthia J. Fuerst  
Notary Public

My commission expires

CYNTHIA J. FUERST  
NOTARY PUBLIC, STATE OF NEW YORK  
REGISTERED ONEIDA COUNTY  
COMMISSION EXPIRES JUNE 30, 20 07

**EXHIBIT D**

(See Section 3.10 and 3.11 of Security Agreement)

**INTELLECTUAL PROPERTY RIGHTS**

**PATENTS**

Toler, Incorporated is the owner of all of the intellectual property assets listed on the attached enclosure.

[Please see enclosed]

Attachment C  
1007

Toter Incorporated  
Trademark/Patent Inventory

Revised 10/4/2001	Name	Country	File Number	Status	Type	Memo	Reg No	Expires
		<u>Trademarks</u>		Use "Circle T" for all registered marks				
1	Atlas	Canada	0032-00131	Registered			422,572	
2	Atlas	Taiwan	0032-00270	Registered			592590	
3	Atlas	US	0032-02860	Registered			1780831	7/6/03
4	Bar-Loc	US	0033-00286	Cancelled			1798437	
5	Hands Free	US	0036-00286	Registered			2041187	2/25/07
6	Highlift	US	0030-00286	Registered			1713060	9/8/02
7	Pebble Creek	US	0042-00286	Registered			2300678	12/14/09
8	Rover	US	0038-00286	Allowed	Use TM			
9	Rugged Rim	US	0034-00286	Registered			2046457	3/18/07
10	Smart Way	France	0031-00162	Registered			1711351	
11	Smart Way	US	0031-00286	Registered			1749133	1/26/03
12	Tomorrow's Waste Solutions Today	US	0010-00286	Cancelled			1650311	7/9/01
13	Toter	Argentina	0027-00108	Registered			1661147	3/18/08
14	Toter	Benelux	0027-00118	Registered			457618	9/8/08
15	Toter	Canada	0027-00131	Registered			333598	
16	Toter	Canada	0027-01131	Registered			336816	
17	Toter	Germany	0027-00147	Registered			1141554	
18	Toter	Italy	0027-00191	Registered			551035	10/31/08
19	Toter	Mexico	0027-00223	Registered			452438	
20	Toter	Mexico	0027-01223	Registered			452337	
21	Toter	Peru	0027-00238	Registered			38059	8/11/07
22	Toter	Swiss	0027-00135	Registered			365284	
23	Toter	Taiwan	0027-00270	Cancelled			535279	
24	Toter	UK	0027-00164	Registered			81354549	
25	Toter	US	0027-00286	Registered			1426599	
26	Toter Worksaver	US	0026-00286	Cancelled			1866108	12/6/04
27	Trimlift	US	0028-00286	Registered			1688767	5/28/02
28	Worksaver	US	0025-00286	Registered			1921515	9/29/05

			<u>Patents</u>	Use patent number where applicable			Pat No	
1	Blowmolded Container	US	0016-00286	Cancelled	Utility	Atlas	6261562	11/16/07
2	Composition for rotational Molding	US	0024-00286	Issued	Utility	EVR	6886068	11/26/16
3	Molding Method	US	0022-00286	Issued	Utility	EVR	5776405	5/14/14
4	Port Trash Container	US	0019-00286	Issued	Design	EVR	0365428	12/19/09
5	Blowmolded Container *	US	0015-00286	Cancelled	Utility	Atlas *	6193708	
6	Blowmolded Container *	US	0013-00286	Cancelled	Utility	Atlas *	5165564	
7	Blowmolded Container *	US	0014-00286	Cancelled	Utility	Atlas *	5167351	

Attch C 2007

## Toter Incorporated Trademark/Patent Inventory

Trademarks and Patents - Page 2

9	Refuse Container	US	0012-00288	Issued	Utility EVR	5538158	7/23/10
10	Refuse Container	US	0012-01286	Issued	Utility EVR	5582322	12/10/10
11	Refuse Container	US	0012-02286	Issued	Utility EVR	5585419	12/17/10
12	Stop-Bar for Cont	US	0019-01286	Issued	Design EVR	D374530	8/8/10
13	Tilt Truck	US	0020-00286	Issued	Design	D383279	9/2/11
14	Utility Truck	US	0021-00286	Issued	Design	D381164	7/15/11
15	Welghing Apparatus	US	0018-00286	Issued	Utility	5119894	6/9/08
16	Container Box Rim	US	0009-02286	Issued	Utility	5922267	7/13/13

### Patents Licensed to Toter

1	Co-collection **	US	Mezey	Issued	Utility	5035563
2	Co-collection **	US	Mezey	Issued	Utility	5163805
3	Co-collection **	US	Mezey	Issued	Utility	5205898
4	Co-collection **	US	Mezey	Issued	Utility	5303841

### Notes

\* Co-ownership with Chilton Products Company (All blowmolded patents are cancelled)

\*\* License expires April 19, 2011

Miscellaneous Poyner & Spruill

Smart Designs US **Cancelled** TM

10/1/2001

CURRENT PATENTS IN FORCE

	Name	Country	Next Due	Action	Description
1	EVR Material Composition 5,886,068	USA File 24	3/23/2003	1st maintenance fee	Material composed of micro-pellets and mini micro-pellets in specific range
2	EVR Molding method 5,538,158	USA File 12	1/23/2004	2nd maintenance fee	Method of molding refuse container with sealed-off handle using blend of micro- pellets and powder
3	EVR Molding method 5,776,405	USA File 22	1/7/2002	1st maintenance fee	Method of molding any container with sealed off protrusion using blend of micro- pellets in specific range
4	EVR Material Composition 5,585,419	USA File 12.02	6/17/2004	2nd maintenance fee	Material composed of micro-pellets and powder
5	EVR Molding method 5,582,322	USA File 12.01	6/10/2004	2nd maintenance fee	Method of molding any container with sealed off protrusion using blend of micro-pellets and powder
6	EVR Design D374,530	USA File 19.01	10/8/2010	expires	Stop-bar detail design patent

Attach C 3 of 7

Attach C Page 7

Name	Country	Next Due	Action	Description
7 Container Box Rim 5,922,267	USA File 09.02	1/13/2003	1st maintenance fee	Method of molding enclosed container rim ( Rugged Rim) with vent
9 Portable Container Design D365,428	USA File 19	12/19/2009	expires	EVR nestable container design patent
10 Tilt Truck Design D383,279	USA File 20	7/15/2011	expires	Tilt truck design patent
11 Utility Truck Design D381,164	USA File 21	7/15/2011	expires	Utility truck design patent

CURRENT TRADEMARKS IN FORCE 10/1/2001

	Name	Country	Next Due	Action	Description
1	Atlas	Canada	1/28/2009	Renewal	Refuse and Recycling Carts
2	Atlas	Taiwan	3/31/2003	Renewal	Recycling Container
3	Atlas	USA	7/6/2003	Renewal	Carts for transporting refuse and recycling
4	Hands Free	USA	2/25/2003	Declaration of use	Wheeled container with pedal actuated cover
5	Highlift	USA	9/8/2002	Renewal	Hydraulic can dumper
6	Pebble Creek	USA	12/4/2005	Declaration of use	Garden, patio and deck ponds
7	Rover	USA	11/23/2001	Declaration of use	Mobile cart dumpers
8	Rugged Rim	USA	3/18/2003	Renewal	Material handling cart
9	Smart Way	France	12/12/2001	Renewal	Weighing and dumping
10	Smart Way	USA	1/26/2003	Renewal	Weighing and dumping
11	Toter	Argentina	3/18/2008	Renewal	Plastic containers on wheels
12	Toter	Benelux	9/6/2008	Renewal	Plastic containers on wheels
13	Toter	Canada	10/30/2002	Renewal	Plastic containers on wheels
14	Toter	Canada	2/5/2003	Renewal	Leasing services
15	Toter	Germany	8/31/2008	Renewal	Plastic containers on wheels
16	Toter	Italy	10/31/2008	Renewal	Plastic containers on wheels
17	Toter	Mexico	11/25/2003	Renewal	Plastic containers on wheels (Commercial)
18	Toter	Mexico	11/25/2003	Renewal	Plastic containers on wheels (Domestic)
19	Toter	Peru	8/11/2007	Renewal	Plastic containers on wheels
20	Toter	Switzerland	8/16/2008	Renewal	Plastic containers on wheels
21	Toter	UK	8/12/2005	Renewal	Plastic containers on wheels
22	Toter	USA	1/27/2007	Renewal	Plastic containers on wheels
23	Trimlift	USA	5/26/2002	Renewal	Hydraulic can dumper
24	Worksaver	USA	9/26/2005	Renewal	Mechanical Dumpers and carts

Attch C 5767



ATLAS PATENTS

File #	Serial #	Patent #	Date	Title
500/83	820,539	5,165,564	Nov. 24, 1992	Refuse container with double wall lid
500/87	820,527	5,167,351	Dec, 1992	Refuse container lid with integrally formed hinges
500/88	820,538	5,193,708	Mar. 16, 1993	Refuse container with snap-on hinges and hinge retainers
500/89	820,540	Abandoned	--	Refuse container with compression molded lip for rigidity
500/90	820,544	5,261,562	Nov. 16, 1993	Blow-molded container with blow-molded handle (assigned to Toter)

Attch C 787

EVR PATENT SUMMARY

4/20/99

FILE NO.	DESCRIPTION	PAT. NO.	DATE ISSUED
0.0012	ORIGINAL EVR PATENT DESCRIBES A METHOD OF MOLDING A REFUSE CONTAINER WITH SEALED-OFF HANDLE USING BLEND OF <u>MICRO-PELLETS</u> AND <u>POWDER</u>	5,538,158	7/23/96 ✓
.0012-01	DESCRIBES A METHOD OF MOLDING ANY CONTAINER WITH SEALED-OFF PROTRUSION USING A BLEND OF <u>MICRO-PELLETS</u> AND <u>POWDER</u>	5,582,322	12/10/96 ✓
.0012-02	DESCRIBES MATERIAL COMPOSITION COMPOSED OF <u>MICRO-PELLETS</u> AND <u>POWDER</u>	5,585,419	12/17/96
0.0022	DESCRIBES A METHOD OF MOLDING ANY CONTAINER WITH SEALED-OFF PROTRUSION USING A BLEND OF <u>MICRO-PELLETS</u> IN A SPECIFIC RANGE	5,776,405	7/7/98
0.0024	DESCRIBES MATERIAL COMPOSITION COMPOSED OF <u>MICRO-PELLETS</u> AND <u>MINI MICRO-PELLETS</u> IN A SPECIFIC RANGE	5,886,068	3/23/99 ✓
0.0019	EVR NESTABLE DESIGN PATENT	D365,428	12/10/95
.0019-01	EVR STOP-BAR DETAIL DESIGN PATENT	D374,530	10/8/96
0009-02	METHOD OF MOLDING CONTAINER RIM (ENCLOSED RIM)	5,922,257	7/13/99 4 23 7 1 1

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