


03-10-2005

DEPARTMENT OF COMMERCE  
Patent and Trademark Office

<b>RECORDATION TRADEM</b>		
To the Director of the U. S. Patent and Trademark Office:		102858042
<p><b>1. Name of conveying party(ies)/Execution Date(s):</b></p> <p>Toter, Incorporated</p> <p><input type="checkbox"/> Individual(s)      <input type="checkbox"/> Association  <input type="checkbox"/> General Partnership      <input type="checkbox"/> Limited Partnership  <input checked="" type="checkbox"/> Corporation-State  <input type="checkbox"/> Other _____</p> <p>Citizenship (see guidelines) <u>North Carolina</u></p> <p>Execution Date(s) <u>January 27, 1999</u></p> <p>Additional names of conveying parties attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		<p><b>2. Name and address of receiving party(ies)</b> <input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p> <p>Additional names, addresses, or citizenship attached?</p> <p>Name: <u>Branch Banking and Trust Company</u>  Internal  Address: _____</p> <p>Street Address: <u>500 E. Broad Street</u>  City: <u>Statesville</u>  State: <u>North Carolina</u>  Country: <u>USA</u>      Zip: <u>28677</u></p> <p><input type="checkbox"/> Association      Citizenship _____  <input type="checkbox"/> General Partnership      Citizenship _____  <input type="checkbox"/> Limited Partnership      Citizenship _____  <input type="checkbox"/> Corporation      Citizenship _____  <input checked="" type="checkbox"/> Other <u>Corporation</u>      Citizenship <u>North Carolina</u></p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input type="checkbox"/> No  (Designations must be a separate document from assignment)</p>
<p><b>3. Nature of conveyance:</b></p> <p><input type="checkbox"/> Assignment      <input type="checkbox"/> Merger  <input checked="" type="checkbox"/> Security Agreement      <input type="checkbox"/> Change of Name  <input type="checkbox"/> Other _____</p>		
<p><b>4. Application number(s) or registration number(s) and identification or description of the Trademark.</b></p> <p>A. Trademark Application No.(s)  <u>See Exhibit A attached.</u></p>		<p>B. Trademark Registration No.(s)  <u>See Exhibit A attached.</u></p> <p>Additional sheet(s) attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):</p>		
<p><b>5. Name &amp; address of party to whom correspondence concerning document should be mailed:</b></p> <p>Name: <u>Kimberly B. Saltrick, Paralegal</u>  Internal Address: _____  <u>Helms Mulliss &amp; Wicker, PLLC</u>  Street Address: _____  <u>201 N. Tryon Street</u>  City: <u>Charlotte</u>  State: <u>NC</u>      Zip: <u>28202</u>  Phone Number: <u>(704) 343-2278</u>  Fax Number: <u>(704) 444-8847</u>  Email Address: <u>kimberly.saltrick@hmw.com</u></p>		<p><b>6. Total number of applications and registrations involved:</b> <span style="border: 1px solid black; padding: 2px;">16</span></p>
		<p><b>7. Total fee (37 CFR 2.6(b)(6) &amp; 3.41)</b> <u>\$415.00</u></p> <p><input type="checkbox"/> Authorized to be charged by credit card  <input type="checkbox"/> Authorized to be charged to deposit account  <input checked="" type="checkbox"/> Enclosed</p>
		<p><b>8. Payment Information:</b></p> <p>a. Credit Card      Last 4 Numbers _____  Expiration Date _____</p> <p>b. Deposit Account Number _____  Authorized User Name _____</p>
<p><b>9. Signature:</b> <u>Robert H. Pryor</u>      <u>February 16, 2005</u>  Signature      Date</p> <p><u>Robert H. Pryor, Esq.</u>  Name of Person Signing</p>		<p>Total number of pages including cover sheet, attachments, and document: <span style="border: 1px solid black; padding: 2px;">41</span></p>

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

03/16/2005 GT0N11 00000176 1650311

01 FC:8521 40.00 OP  
02 FC:8522 375.00 OP  
03 FC:8523 120.00 OP

TRADEMARK  
REEL: 003047 FRAME: 0394

**EXHIBIT A****Trademarks and Trademark Applications**

<b>MARK</b>	<b>SERIAL NO./FILE DATE REGISTRATION NO./ISSUE DATE</b>
TOMORROW'S WASTE SOLUTIONS	SN: F: Reg. No.: 1,650,311 Issued: 7/9/91
WORKSAVER	SN: 583,402/74 F: 10/7/94 Reg. No.: 1,921,515 Issued: 9/26/95
TOTER WORKSAVER	SN: 040,820/74 F: 3/21/90 Reg. No.: 1,866,108 Issued: 12/6/94
TOTER	SN: 592,473 F: 4/9/86 Reg. No.: 1,426,599 Issued: 1/27/87
POWER LIFT	SN: 74-035,465 F: 2/28/90 Reg. No.: 1,643,186 Issued: 4/30/91
TRIMLIFT	SN: 178,100/74 F: 6/20/91 Reg. No.: 1,688,757 Issued: 5/26/92
HIGHLIFT	SN: 178,053/74 F: 6/20/91 Reg. No.: 1,713,060 Issued: 9/8/92
SMART WAY	SN: 148,050/74 F: 3/15/91 Reg. No.: 1,749,133 Issued: 1/26/93
ATLAS	SN: 225,165/74 F: 11/25/91 Reg. No.: 1,780,831 Issued: 7/6/93
BAR-LOC	SN: 276,411/74 F: 5/18/92 Reg. No.: 1,789,437 Issued: 10/12/93
RUGGED RIM	SN: 650,057/74 F: 3/22/95 Reg. No.: 2,046,457 Issued: 3/18/97
HANDS OFF	SN: 650,255/74 F: 3/22/95 Reg. No.: Issued:

MARK	SERIAL NO./FILE DATE REGISTRATION NO./ISSUE DATE
HANDS FREE	SN: 650,082/74 F: 3/22/95 Reg. No.: 2,041,187 Issued: 2/25/97
ROVER	SN: 194,332/75 F: 11/7/96 Reg. No.: Issued:
HANDS FREE	SN: 139,052/75 F: 7/24/96 Reg. No.: Issued:
SECURE LOCK	SN: 154,803/75 F: 8/23/96 Reg. No.: Issued:

# INTELLECTUAL PROPERTY SECURITY AGREEMENT

**THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT** (this "Agreement") is made this 27th day of January, 1999 by **TOTER, INCORPORATED**, a North Carolina corporation ("Grantor"), in favor of **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation ("Lender"). All capitalized terms used but not otherwise defined herein shall have the respective meanings assigned thereto in the Loan Agreement (as defined below).

## WITNESSETH:

**WHEREAS**, Lender and Grantor are party to a Loan Agreement dated as of the date hereof (as amended, modified, extended or supplemented from time to time, the "Loan Agreement") pursuant to which Lender has agreed to make certain financial arrangements available to Grantor consisting of (i) an industrial real estate term loan of up to \$3,850,000, (ii) a revolving working capital loan of up to \$10,000,000, (iii) an equipment term loan of up to \$4,500,000 and (iv) a capital expenditures loan of up to \$2,500,000 (collectively, the "Loans"); and

**WHEREAS**, the Loans are evidenced by Notes; and

**WHEREAS**, Lender is unwilling to make the Loans to Grantor unless Grantor executes this Agreement to secure its obligations under the Loan Agreement, the Notes and the other Loan Documents (as defined in the Loan Agreement) to which Grantor is a party.

**NOW, THEREFORE**, in order to induce Lender to enter into the Loan Documents and to make the Loans and in consideration of the premises and the mutual covenants contained herein, the parties hereto agree as follows:

1. **Grant of Security.** Grantor hereby grants a security interest in and collaterally assigns to Lender all of the following (collectively, the "Collateral"):

(a) all of Grantor's right, title and interest, whether now owned or hereafter acquired, in and to all United States and foreign patents and patent applications (including without limitation the patents and patent applications identified on Schedule I attached hereto and incorporated herein by reference) and including the right to recover for all past, present and future infringements thereof and all reissues, divisions, continuations, continuations-in-part, substitutes, renewals, and extensions thereof, all improvements thereon, and all other rights of any kind whatsoever of Grantor accruing thereunder or pertaining thereto (collectively, the "Patents");

(b) all of Grantor's right, title and interest, whether now owned or hereafter acquired, in and to all United States and foreign trademarks, trade names, trade dress, service marks, trademark and service mark registrations, and applications for trademark or service mark registration and any renewals thereof (including without limitation each trademark, trade name, trade dress, registration and application identified in Schedule II attached hereto

and incorporated herein by reference) and including all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto (including without limitation damages for past or future infringements thereof), the right to sue or otherwise recover for all past, present and future infringements thereof, all rights corresponding thereto throughout the world (but only such rights as now exist or may come to exist under applicable local law) and all other rights of any kind whatsoever of Grantor accruing thereunder or pertaining thereto, together in each case with the goodwill of the business connected with the use of, and symbolized by, each such trademark and service mark (collectively, the "Trademarks");

(c) all of Grantor's right, title and interest, whether now owned or hereafter acquired, in and to all United States and foreign copyrights and copyright applications (including without limitation the copyrights and copyright applications identified on Schedule III attached hereto and incorporated herein by reference) and including the right to recover for all past, present and future infringements thereof and all reissues, divisions, continuations, continuations-in-part, substitutes, renewals, and extensions thereof, all improvements thereon, and all other rights of any kind whatsoever of Grantor accruing thereunder or pertaining thereto (collectively, the "Copyrights");

(d) all license agreements regarding Patents, Trademarks or Copyrights with any other party, whether Grantor is a licensor or licensee under any such license agreement (including without limitation the licenses listed on Schedule IV attached hereto and incorporated herein by reference), and the right to prepare for sale, sell and advertise for sale, all Inventory (as defined in the Security Agreement) now or hereafter owned by Grantor and now or hereafter covered by such licenses (collectively, the "Licenses"); and

(e) all proceeds of any of the foregoing.

In addition, Grantor has executed in blank and delivered to Lender an assignment of licenses and federally registered patents, trademarks and copyrights (the "IP Assignment") owned by it in the form of Exhibit A hereto. Grantor hereby authorizes Lender to complete as Assignee and record with the United States Patent and Trademark Office (the "Patent and Trademark Office") and the United States Copyright Office (the "Copyright Office") each IP Assignment upon the occurrence of an Event of Default that is continuing at the time of filing.

2. **Security for Obligations.** The security interests granted under this Agreement (the "Security Interests") by Grantor secure the payment of all obligations of Grantor under, in respect of or in connection with this Agreement and the Loan Agreement (including without limitation Grantor's Obligations thereunder), respectively, and each other Loan Document to which Grantor is or becomes a party (all such obligations being the "Secured Obligations").

The Security Interests granted by this Agreement are granted in conjunction with the security interests granted to Lender in other assets of Grantor pursuant to the other Loan Documents.

3. **Collateral Assignment.** In addition to, and not in limitation of, the grant of the Security Interests in the Patents, Trademarks, Copyrights and Licenses in Section 1 above, Grantor

hereby grants, assigns, transfers, conveys and sets over to Lender, Grantor's entire right, title and interest in and to the Patents, Trademarks, Copyrights and Licenses; provided, that such grant, assignment, transfer and conveyance shall become effective only at the election of Lender after the occurrence of an Event of Default that is continuing at the time of such election. Grantor hereby agrees that after the effectiveness of such grant, assignment, transfer and conveyance of any of the Patents, Trademarks, Copyrights and License, the use by Lender of any of such Patents, Trademarks, Copyrights and Licenses shall be without any liability for royalties or other related charges from Lender to Grantor.

#### 4. Further Assurances.

(a) Grantor agrees that from time to time, at the expense of Grantor, Grantor will promptly execute and deliver all further instruments and documents and take all further action that may be necessary or desirable in Lender's determination, or that Lender may reasonably request, in order to (i) continue, perfect and protect any Security Interest granted or purported to be granted hereby, (ii) perfect Lender's Security Interest in and assign to Lender as security for the repayment and satisfaction of the Secured Obligations, all Collateral located in any foreign jurisdiction, and (iii) enable Lender to exercise and enforce its rights and remedies hereunder with respect to any part of the Collateral. Without limiting the generality of the foregoing, Grantor will execute and file (with the appropriate governmental offices, authorities, agencies and regulatory bodies in the United States and any applicable foreign jurisdiction) such supplements to this Agreement and such financing or continuation statements, or amendments thereto, and such other instruments or notices, including executed IP Assignments, with the Patent and Trademark Office and the Copyright Office, as may be necessary or desirable, or as Lender, on behalf of Lender, may reasonably request, in order to perfect and preserve the Security Interests granted hereby.

(b) Grantor hereby authorizes Lender, on behalf of Lender, upon the occurrence and during the continuation of an Event of Default, to file, where permitted by law, one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of Grantor. A carbon, photographic or other reproduction of this Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(c) Grantor will furnish to Lender from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as Lender may reasonably request, all in reasonable detail.

(d) Grantor agrees that, should it have or obtain an ownership interest in any United States or foreign patent or patent application that is not now identified on Schedule I, any trademark or trademark application that is not now identified on Schedule II or any copyright or copyright application that is not now identified on Schedule III or any license agreement in respect of any patent, trademark or copyright that is not now identified on Schedule IV: (i) the provisions of this Agreement shall automatically apply to such item, and such item shall automatically become part of the Collateral; (ii) Grantor shall, within three months after acquiring or becoming aware of such ownership interest, (A) give written

notice thereof to Lender, (B) with respect to Trademarks and Patents, cause such Trademarks and Patents to be properly registered with the Patent and Trademark Office, (C) with respect to Copyrights, cause such Copyrights to be registered with the Copyright Office and (D) with respect to Patents, Trademarks, Copyrights and Licenses, prepare, execute and file in the Patent and Trademark Office, the Copyright Office or in the equivalent agencies in any foreign jurisdiction, within the requisite time period, all documents that are known by Grantor to be necessary or that Lender reasonably requests in order to perfect the Security Interest of Lender therein. Grantor authorizes Lender to execute and file such a document in the name of Grantor if Grantor fails to do so.

(e) Grantor agrees that should any of its subsidiaries (other than a corporation which is a party hereto and whether now or hereafter existing) obtain any ownership interest in any United States or foreign intellectual property of a nature that would be Collateral hereunder if owned by Grantor, Grantor shall either cause such corporation (i) to become a party hereto, or (ii) to transfer and assign all such corporation's ownership interests therein to Grantor, whereupon the provisions of subsection (d) of this Section 4 shall be applicable thereto.

(f) Grantor agrees: (i) to take all necessary steps in any proceeding before the Patent and Trademark Office, the Copyright Office or any similar office or agency in any other country or any political subdivision thereof or in any court, to maintain and pursue each patent application now or hereafter included in the Collateral and to maintain each patent, trademark or copyright now or hereafter included in the Collateral, including the filing of divisional, continuation, continuation-in-part and substitute applications, the filing of applications for reissue, renewal or extensions, the payment of maintenance fees, and the participation in interference, reexamination, opposition and infringement proceedings; (ii) to take corresponding steps with respect to material unpatented inventions on which Grantor is now or hereafter becomes entitled to seek protection; (iii) to bear any expenses incurred in connection with such activities; and (iv) not to abandon any right to file a material patent application, or abandon any material pending application with respect to any of the Collateral, without the prior written consent of Lender.

(g) Grantor shall not do any act or omit to do any act whereby any of the Collateral may become dedicated or abandoned, except where such dedication or abandonment (i) will not materially adversely affect the business, condition (financial or otherwise), operations, performance, or properties of Grantor individually or of Grantor and its subsidiaries taken as a whole, and (ii) is in the ordinary course of Grantor's business. Grantor agrees to notify Lender promptly and in writing if it learns that any of the Collateral may become abandoned or dedicated or of any adverse determination or any development (including without limitation the institution of any proceeding in the Patent and Trademark Office, the Copyright Office or in the equivalent agencies in any foreign jurisdiction, or any court) regarding any material part of the Collateral.

(h) Grantor agrees that in the event that any of the Collateral as to which it has granted the Security Interests is infringed or misappropriated by a third party, Grantor shall promptly notify Lender and shall take all reasonable steps to terminate the infringement or

misappropriation, and take such other actions as Grantor shall deem appropriate under the circumstances to protect such Collateral. Any expense incurred in connection with such activities shall be borne by Grantor.

(i) Grantor agrees (i) to maintain the quality of any and all products in connection with which the Collateral is used, consistent with the quality standards established by Grantor for said products as of the date of determination, and (ii) to provide Lender, on behalf of Lender, at least quarterly, with a certificate of an officer of Grantor certifying Grantor's compliance with the foregoing subsections 4(a) through 4(i).

(j) Grantor agrees that it will promptly correct any defect or error that may be discovered in this Agreement, any document executed pursuant hereto or the execution, acknowledgment or recordation thereof.

(k) Grantor shall continue to mark its products according to statute with the numbers of all appropriate Patents.

5. **General Representations and Warranties.** Grantor represents and warrants as follows:

(a) It has the unqualified right to enter into this Agreement and to perform its terms.

(b) No authorization, consent, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body or any other Person is required either (i) for the grant by Grantor of the Security Interests granted hereby (excluding such licenses which, by their terms, required the consent of the licensor to assign the license but as to which Grantor represents and warrants such consent has been made in writing, copies of which have been delivered to Lender) or for the execution, delivery or performance of this Agreement by Grantor, or (ii) for the perfection of or the exercise by Lender of its rights and remedies hereunder, except for the filing of this Agreement with the Patent and Trademark Office, the Copyright Office and with the equivalent offices in any foreign jurisdiction with respect to each Trademark, and the filings required by the Uniform Commercial Code of the State in which Grantor maintains its chief executive office, and except to the extent that the exercise of rights and remedies may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors rights generally or by general principles of equity.

(c) Set forth on Schedule IV is a list, which is complete and accurate in all material respects as of the date hereof, of Licenses of Grantor necessary for the conduct of its business as currently conducted or utilized and material in Grantor's operations or materially used in the selling or marketing of Grantor's products, including the expiration date of such Licenses.

(d) Each License of Grantor identified on Schedule IV is validly subsisting and has not been adjudged invalid or unenforceable, in whole or in part, and is, to Grantor's



knowledge, valid and enforceable. No action or proceeding is pending or threatened seeking to limit, cancel or question the validity of Collateral.

(e) It has notified Lender in writing of all uses of any Patent, Trademark or Copyright, prior to Grantor's use, of which Grantor is aware, which would in the reasonable judgment of Grantor lead to such item becoming invalid or unenforceable, including prior unauthorized uses by third parties and uses that were not supported by the goodwill of the business connected with such item.

(f) It has not granted any release, covenant not to sue, or non-assertion assurance to any third person, nor allowed any shop right to arise with respect to any third person, with respect to any part of the Collateral.

(g) Its products have been marked as required by statute with respect to the Collateral.

(h) The actions contemplated under or in connection with the Loan Documents will not impair the legal right of Grantor to use any of the Collateral.

(i) Except as disclosed to Lenders in writing prior to the date of this Agreement, Grantor has no knowledge of the existence of any right under any patent, trademark, license agreement, trade name, trade secret, know-how, confidential research, development and commercial information, or other proprietary information held by any other Person that would preclude Grantor from publishing, distributing, marketing, selling, or using any product currently made by it, being made for it or sold or used by it, imported by it or exported by it, as the case may be, or to use any processes currently used by it (except, in each case, to the extent that Grantor has granted an exclusive license to another Person), or materially interfere with the ability of Grantor to carry on its business as currently carried on, and Grantor has no knowledge of any claim to the contrary that is likely to be made.

(j) Grantor has used consistent standards of quality in manufacturing, distribution and marketing of each product sold and provision of each service provided under any Collateral, and has taken all steps necessary to ensure that all licensed users of any Collateral use such consistent standards of quality.

(k) None of Grantor's subsidiaries (except to the extent that such subsidiaries are also Grantors hereunder) has an ownership interest in any patents, patent applications, copyrights, copyright applications, trademark, trade name, trade dress, service marks, trademark or service mark registrations or any applications for trademark or service mark registration or any other intellectual property of a nature that would be Collateral hereunder if owned by Grantor.

(l) No claim has been made (and, as to Collateral with respect to which Grantor is a licensor, to the knowledge of Grantor, no claim has been made against the third party licensee), and Grantor has no knowledge of any claim that is likely to be made, that the use by Grantor of any Collateral does or may violate the rights of any Person.

6. **Patent Representations and Warranties.** Grantor represents and warrants as follows:

(a) It is the sole legal and beneficial owner of the Patents set forth opposite its name on Schedule I hereto, free and clear of any Lien, security interest, option, charge, pledge, assignment (whether conditional or not), or any other encumbrance except for the security interests created or permitted by this Agreement or the Loan Agreement and certain Licenses and registered user agreements described on Schedule IV and no financing statement or other instrument similar in effect covering all or any part of such Collateral is on file in any recording office, except such as may have been filed in favor of Lender.

(b) Set forth on Schedule I is a list of all of the Patents owned by Grantor necessary for the conduct of its business as currently conducted or utilized in Grantor's operations or used in the selling or marketing of Grantor's products.

(c) Each Patent of Grantor identified on Schedule I hereto is subsisting and has not been adjudged unpatentable, invalid or unenforceable, in whole or in part, and to the knowledge of Grantor is patentable, valid and enforceable, and each of such Patent applications has been filed in conformity with applicable rules and procedures of the Patent and Trademark Office and of the equivalent agencies in each applicable foreign jurisdiction and will be diligently prosecuted in conformity therewith so as not to become improperly abandoned.

7. **Trademark Representations and Warranties.** Grantor represents and warrants as follows:

(a) It is the sole, legal and beneficial owner of the entire right, title and interest in and to the Trademarks purported to be granted by it hereunder, free and clear of any Lien, security interest, option, charge, pledge, registered user agreement, assignment (whether conditional or not), or covenant, or any other encumbrance, except for the Security Interests created or permitted by this Agreement, Permitted Liens and certain Licenses and registered user agreements described on Schedule IV. No financing statement or other instrument similar in effect covering all or any part of the Trademarks purported to be granted by Grantor hereunder is on file in any recording office, including, without limitation, the Patent and Trademark Office and the equivalent offices in any foreign jurisdiction, except such as may have been filed in favor of Lender.

(b) Set forth on Schedule II is a list of all of the Trademarks owned by Grantor necessary for the conduct of its business as currently conducted or utilized and material in Grantor's operations or used in the selling or marketing of Grantor's products.

(c) Each Trademark of Grantor identified on Schedule II is validly subsisting and has not been abandoned or adjudged invalid, unregistrable or unenforceable, in whole or in part, and is, to Grantor's knowledge, valid, registrable and enforceable.

8. **Copyright Representations and Warranties.** Grantor represents and warrants as follows:

(a) It is the sole, legal and beneficial owner of the entire right, title and interest in and to the Copyrights purported to be granted by it hereunder, free and clear of any Lien, security interest, option, charge, pledge, registered user agreement, assignment (whether conditional or not), or covenant, or any other encumbrance, except for the Security Interests created or permitted by this Agreement, Permitted Liens and certain Licenses and registered user agreements described on Schedule IV. No effective financing statement or other instrument similar in effect covering all or any part of the Copyrights purported to be granted by Grantor hereunder is on file in any recording office, including, without limitation, the Copyright Office and the equivalent offices in any foreign jurisdiction, except such as may have been filed in favor of Lender.

(b) Set forth on Schedule III is a list of all of the Copyrights owned by Grantor necessary for the conduct of its business as currently conducted or utilized and material in Grantor's operations or materially used in the selling or marketing of Grantor's products.

(c) Each Copyright of Grantor identified on Schedule III is validly subsisting and has not been abandoned or adjudged invalid, unregistrable or unenforceable, in whole or in part, and is, to Grantor's knowledge, valid, registrable and enforceable.

9. **Transfers and Other Liens.** Grantor shall not:

(a) sell, assign (by operation of law or otherwise) or otherwise dispose of any of, or grant any option with respect to, the Collateral, except as permitted by the Loan Agreement, except that Grantor may license the Collateral (i) in the ordinary course of Grantor's business, provided that such license is necessary or desirable in the conduct of Grantor's business, or (ii) in connection with a sale of assets in compliance with the Loan Agreement, provided that such license shall be on terms reasonably expected to maximize the gain to Grantor resulting from the granting of such license. Lender shall execute any documents that Grantor may reasonably request in order to permit Grantor to exercise its right hereunder to license the Collateral, provided that Lender shall not be required to do anything that may, in the sole judgment of Lender, adversely affect the validity of the Security Interests or the assignment of the Collateral located in any foreign jurisdiction;

(b) create, permit, or suffer to exist any Lien, security interest or other charge or encumbrance upon or with respect to any of the Collateral except for the Security Interests created by this Agreement; or

(c) take any other action in connection with any of the Collateral that would impair the value of the interest or rights of Grantor in the Collateral or that would impair the interest or rights of Lender.

10. **Lender Appointed Attorney-in-Fact.** Without limiting any other provision of this Agreement, upon the occurrence and during the continuance of an Event of Default, Grantor hereby

irrevocably appoints Lender as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor or otherwise, from time to time in Lender's discretion, to take any action and to execute any instrument that Lender may deem necessary or advisable to accomplish the purposes of this Agreement, including without limitation:

(a) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;

(b) to receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with clause (a) above;

(c) to file any claims or take any action or institute any proceedings that Lender may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of Lender with respect to any of the Collateral; and

(d) to execute, in connection with the sale provided for in Section 13 hereof, any endorsement, assignments, or other instruments of conveyance or transfer with respect to the Collateral.

**11. Lender May Perform.**

(a) If Grantor fails to perform any agreement contained herein, Lender may itself perform, or cause performance of, such agreement, and the expenses of Lender incurred in connection therewith shall be payable by Grantor under Section 14(b) hereof to the fullest extent permitted by applicable law.

(b) Lender or its designated representatives shall have the right, to the extent reasonably requested and upon reasonable prior notice, at any reasonable time during normal business hours of such Grantors and from time to time, to inspect Grantors' premises and to examine Grantors' books, records and operations relating to the Collateral.

**12. Lender's Duties.** The powers conferred on Lender hereunder are solely to protect the interest of Lender in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, Lender shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against other parties or any other rights pertaining to any Collateral. Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if such Collateral is accorded treatment substantially equal to that which such party accords its own similar property.

**13. Remedies Upon Acceleration Event.** If an Event of Default shall have occurred and be continuing:

(a) Lender may exercise in respect of the Collateral of any defaulting Grantor, in addition to other rights and remedies provided for herein or otherwise available to it, all

the rights and remedies of a secured party upon default under the Uniform Commercial Code as in effect in the State of North Carolina (the "UCC") and also may (i) exercise any and all rights and remedies of Grantor under, in connection with, or otherwise in respect of, such Collateral, including the completion and filing of the IP Assignment, (ii) require Grantor to, and Grantor hereby agrees that it will at its expense and upon request of Lender forthwith, assemble all or part of the documents embodying such Collateral as directed by Lender and make it available to Lender at a place to be designated by Lender that is reasonably convenient to both Lender and Grantor, (iii) occupy any premises owned or leased by Grantor where documents embodying such Collateral or any part thereof are assembled for a reasonable period in order to effectuate Lender's rights and remedies hereunder or under applicable law, without obligation to Grantor in respect of such occupation, (iv) license such Collateral or any part thereof, and (v) without notice except as specified below, sell such Collateral or any part thereof in one or more parcels at public or private sale, at any of Lender's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as Lender may deem commercially reasonable. Grantor agrees that at least ten days' notice to Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. Lender shall not be obligated to make any sale of the Collateral regardless of notice of sale having been given. Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) All payments received by Grantor under or in connection with any of such Collateral shall be received in trust for the benefit of the Lender, shall be segregated from other funds of Grantor and shall be immediately paid over to Lender in the same form as so received (with any necessary endorsement).

(c) All payments made under or in connection with or otherwise in respect of the Collateral of any defaulting Grantor, and all cash proceeds received by Lender in respect of any sale of, collection from, or other realization upon all or any part of such Collateral may, in the discretion of Lender, be held by Lender as collateral for, and then or at any time thereafter applied (after payment of any amounts payable to Lender pursuant to Section 14 hereof) against all or any part of the Secured Obligations. Any sale or other disposition of the Collateral and the possession thereof by Lender shall be in compliance with all provisions of applicable law (including applicable provisions of the UCC).

#### 14. Indemnity and Expenses.

(a) Grantor agrees to indemnify Lender from and against any and all claims, losses and liabilities growing out of or resulting from this Agreement that are incurred thereby (including without limitation enforcement of this Agreement), except claims, losses or liabilities directly resulting from such Secured Party's gross negligence or willful misconduct. The agreements in this subsection (a) shall survive repayment of all Secured Obligations, termination or expiration of this Agreement in any manner, including but not limited to termination in accordance with Section 28 hereof.

(b) Grantor will upon demand pay to Lender the amount of any and all reasonable expenses, including the reasonable fees and disbursements of its counsel and of any experts and agents, that Lender may incur in connection with (i) the administration of this Agreement, (ii) the custody, preservation, use or operation of, or the sale of, collection from or other realization upon, any of the Collateral, (iii) the exercise or enforcement of any of the rights of Lender, or (iv) the failure by Grantor to perform or observe any of the provisions hereof.

15. **Absolute Rights and Obligations.** All rights of the Lender in the Security Interests granted hereunder, and each of the Secured Obligations, shall be absolute and unconditional irrespective of:

(a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations, or any other amendment or waiver of or any consent to departure from, the Loan Agreement or any other Loan Document, including, but not limited to, (i) an increase or decrease in the Secured Obligations and (ii) an amendment of any Loan Document to permit Lender to extend further or additional credit to Grantor in any form including credit by way of loan, purchase of assets, guarantee or otherwise, which credit shall thereupon be and become subject to the Loan Agreement and the other Loan Documents as a Secured Obligation;

(b) any taking and holding of collateral or guarantees (including without limitation any collateral pledged as security for the Secured Obligations under the other Loan Documents) for all or any of the Secured Obligations; or any amendment, alteration, exchange, substitution, transfer, enforcement, waiver, subordination, termination or release of any such collateral or guarantees, or any non-perfection of any such collateral, or any consent to departure from any such guaranty;

(c) any manner of application of collateral, or proceeds thereof, securing payment or enforcement of all or any of the Secured Obligations, or the manner of sale of any such collateral;

(d) any consent by Lender to the change, restructure or termination of the corporate structure or existence of Grantor and any corresponding restructure of the Secured Obligations, or any other restructure or refinancing of the Secured Obligations or any portion thereof;

(e) any modification, compromise, settlement or release by Lender, by operation of law or otherwise; collection or other liquidation of the Secured Obligations or the liability of Grantor or other guarantor, or of any collateral for the Secured Obligations (including without limitation any collateral pledged as security for the Secured Obligations under the other Loan Documents), in whole or in part, and any refusal of payment by Lender or any Lender in whole or in part, from any obligor or other guarantor in connection with any of the Secured Obligations, whether or not with notice to, or further assent by, or any reservation of rights against, Grantor; or

(f) any other circumstance (including without limitation any statute of limitations) that might otherwise constitute a defense available to, or a discharge of, Grantor or any guarantor.

The granting of a Security Interest in the Collateral shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Secured Obligations is rescinded or must otherwise be returned by Lender, upon the insolvency, bankruptcy or reorganization of Grantor or otherwise, all as though such payment had not been made.

16. **Waiver.** Grantor hereby waives promptness, diligence, notice of acceptance and any other notice with respect to any of the Secured Obligations and this Agreement and any requirement that the Secured Parties protect, secure, perfect or insure any Security Interest or any Collateral subject thereto or exhaust any right or take any action against Grantor or any other Person (including without limitation any Guarantor) or any collateral securing payment of the Secured Obligations (including without limitation any collateral pledged as security for the Secured Obligations under the other Loan Documents).

17. **Subrogation.** Grantor further agrees with respect to this Agreement that it shall have no right of subrogation, reimbursement or indemnity, nor any right of recourse to security for the Secured Obligations. This waiver is expressly intended to prevent the existence of any claim in respect to such reimbursement by Grantor against the estate of Grantor within the meaning of Section 101 of the Bankruptcy Code, and to prevent Grantor from constituting a creditor of Grantor in respect of such reimbursement within the meaning of Section 547(b) of the Bankruptcy Code in the event of a subsequent case involving Grantor. If an amount shall be paid to Grantor on account of such subrogation rights at any time prior to termination of this Agreement in accordance with the provisions of Section 28 hereof, such amount shall be held in trust for the benefit of Lender and shall forthwith be paid to Lender to be credited and applied upon the Secured Obligations, whether matured or unmatured, in accordance with the terms of the Loan Agreement and the Facility Guaranty.

18. **Amendments, Etc.**

(a) Except as provided in subsection (b) of this Section 18, no amendment or waiver of any provision of this Agreement nor consent to any departure by Grantor therefrom shall in any event be effective unless the same shall be in writing and signed by Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(b) Upon the execution and delivery by any Person of a supplement to this Agreement, which such supplement shall be in the form of Exhibit B hereto, pursuant to which such Person agrees to become a party hereto (each an "Intellectual Property Security Agreement Supplement"), (i) such Person or entity shall be referred to as an "Additional Grantor" and shall be and become a Grantor and each reference in this Agreement to "Grantor" shall also mean and be a reference to such Additional Grantor, and (ii) the schedules attached to each Intellectual Property Security Agreement Supplement shall be incorporated into and become a part of and supplement Schedules I, II, III and IV hereto, and

Lender may attach such supplements to such Schedules, and each reference to such Schedules shall mean and be a reference to such Schedules as supplemented pursuant hereto.

(c) Any person that executes an Intellectual Property Security Agreement Supplement shall also execute and deliver such financing statements and all further instruments and documents and take all further action that may be necessary or desirable or that Lender may reasonably request in order to perfect and protect any Security Interest purported to be granted thereby.

**19. Continuing Security Interest; Assignments Under the Loan Agreement**

(a) This Agreement shall create a continuing Security Interest in the Collateral and shall remain in full force and effect until terminated in accordance with the provisions of Section 28 hereof.

(b) Except as permitted by the Loan Agreement, no Grantor shall sell, lease, transfer or otherwise dispose of any item of Collateral during the term of this Agreement without the prior written consent of Lender to such sale, lease, transfer or other disposition.

(c) Upon the termination of this agreement in accordance with Section 28 hereof, the Collateral shall be automatically released from the Liens created hereby, all rights to the Collateral shall automatically revert to Grantors, and this Agreement and all obligations of Grantors hereunder shall terminate without delivery of any instrument or performance of any act by any party. Upon such termination of this Agreement, Lender shall reassign and redeliver such Collateral then held by it and execute and deliver to Grantor such documents as it shall reasonably request to evidence such termination.

**20. Additional Collateral.** If Grantor shall acquire or hold any additional Patents, Trademarks, Copyrights or Licenses not listed on Schedules I, II, III or IV hereto which are required to be subject to an Intellectual Property Security Agreement pursuant to the terms of the Loan Agreement (any such Patents, Trademarks, Copyrights or Licenses being referred to herein as the "Additional Collateral"), Grantor shall deliver to Lender (i) a revised Schedule I, II, III or IV hereto, as applicable, reflecting the ownership and pledge of such Additional Collateral and (ii) an Intellectual Property Security Agreement Supplement in the form of Exhibit B hereto with respect to such Additional Collateral duly completed and signed by Grantor. Grantor shall comply with the requirements of this Section 20 concurrently with the acquisition of any such Additional Collateral.

**21. Definitions.** All terms used herein shall be defined in accordance with the appropriate definitions appearing in the UCC, and such definitions are hereby incorporated herein by reference and made a part hereof.

**22. Entire Agreement.** This Agreement, together with the Loan Agreement and the other Loan Documents, constitutes and expresses the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings, inducements, commitments or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance or usage of



the trade inconsistent with any of the terms hereof. Neither this Agreement nor any portion or provision hereof may be changed, altered, modified, supplemented, discharged, canceled, terminated, or amended orally or in any manner other than by an agreement, in writing signed by the parties hereto.

23. **Further Assurances.** Grantor agrees at its own expense to do such further acts and things, and to execute and deliver such additional conveyances, assignments, financing statements, agreements and instruments, as Lender may at any time reasonably request in connection with the administration or enforcement of this Agreement or related to the Collateral or any part thereof or in order better to assure and confirm unto Lender its rights, powers and remedies. Grantor hereby consents and agrees that the issuers of or obligors in respect of the Collateral shall be entitled to accept the provisions hereof as conclusive evidence of the right of Lender to exercise its rights hereunder with respect to the Collateral, notwithstanding any other notice or direction to the contrary heretofore or hereafter given by Grantor or any other Person to any of such issuers or obligors.

24. **Binding Agreement; Assignment.** This Agreement, and the terms, covenants, conditions, rights and remedies hereof, shall be binding upon and inure to the benefit of the parties hereto, and to their respective heirs, legal representatives, successors and assigns; provided, however, that Grantor shall not be permitted to assign any of its rights, powers, duties or obligations under this Agreement or any interest herein or in the Collateral, or any part thereof, or otherwise pledge, encumber or grant any option with respect to the Collateral, or any part thereof, or any cash or property held by Lender as Collateral under this Agreement, without the prior written consent of Lender.

25. **Swap Agreements.** All obligations of Grantor under any swap agreements to which Lender or its affiliates are a party shall be deemed to be Secured Obligations secured hereby, and Lender or affiliate of Lender party to any swap agreement shall be deemed to be a beneficiary hereunder.

26. **Severability.** If any term or provision of this Agreement is or shall become illegal, invalid or unenforceable in any jurisdiction, all other terms and provisions of this Agreement shall remain legal, valid and enforceable in such jurisdiction and such illegal, invalid or unenforceable provision shall be legal, valid and enforceable in any other jurisdiction.

27. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully-executed counterpart.

28. **Termination.** This Agreement and all obligations of Grantor hereunder shall terminate upon payment in full of all Obligations under the Loan Agreement and the other Loan Documents.

29. **Remedies Cumulative.** All remedies hereunder are cumulative and are not exclusive of any other rights and remedies of Lender provided by law or under the Loan Agreement, the other Loan Documents, or other applicable agreements or instruments. The making of the Loans to

Grantor pursuant to the Loan Agreement shall be conclusively presumed to have been made or extended, respectively, in reliance upon Grantor's grant of a Security Interest in the Collateral pursuant to the terms hereof.

30. **Notices.** Any notice required or permitted hereunder shall be given at the address of Grantor or the Lender indicated in the Loan Agreement. All such notices shall be given and shall be effective as provided in the Loan Agreement.

31. **Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NORTH CAROLINA APPLICABLE TO CONTRACTS EXECUTED, AND TO BE FULLY PERFORMED, IN SUCH STATE.

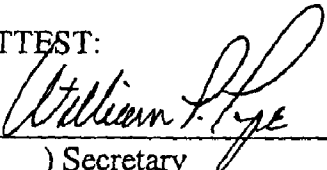
[Signature pages follow]

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day and year first written above.

**GRANTOR:**

**TOTER, INCORPORATED**

ATTEST:

  
\_\_\_\_\_  
( ) Secretary

By: David R. Groan  
Name: DAVID R GROAN  
Title: PRESIDENT

[Corporate Seal]

LENDER:

BRANCH BANKING AND TRUST COMPANY

By: 

Name: SCOTT P. EVANS

Title: V.P.

Signature Page 2 of 2

STATE OF North Carolina )  
 ) ss.  
COUNTY OF Iredell )

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 27 day of January, 1999, personally appeared David R. Grogan to me known personally, and who, being by me duly sworn, deposes and says that he is the President of Totec, Incorporated, and that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said President acknowledged said instrument to be the free act and deed of said corporation.

Linda J. Bryant  
Notary Public  
My commission expires: 1-29-2000

STATE OF North Carolina )  
 ) ss.  
COUNTY OF Iredell )

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 27 day of January, 1999, personally appeared Scott P. Evans to me known personally, and who, being by me duly sworn, deposes and says that he is the Vice President of Branch Banking and Trust Company, a North Carolina banking corporation, and that foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said Vice President acknowledged said instrument to be the free act and deed of said national banking association.

Linda J. Bryant  
Notary Public  
My commission expires: \* 1-29-2000

**SCHEDULE I**

**Patents and Patent Applications**

**U.S. PATENTS**

TITLE OF FILE	SERIAL NO./FILING DATE PAT. NO./ISSUE DATE	STATUS	EXP./ABAND. DATE
ROTATIONALLY MOLDED CONTAINER RIM	SN: 567,541/08 F: 12/5/95 Pat. No.: Issued:	Appealed	
ROTATIONALLY-MOLDED REFUSE CONTAINER WITH INTEGRALLY-MOLDED HANDLE SEALED FROM COMMUNICATION WITH REFUSE-CARRYING COMPARTMENT	SN: 238,635/08 F: 5/5/94 Pat. No.: 5,538,158 Issued: 7/23/96	Issued 1st Maintenance Fee Due 1/23/2000 Est. Cost: \$760	
ROTATIONALLY-MOLDED REFUSE CONTAINER WITH INTEGRALLY-MOLDED HANDLE SEALED FROM COMMUNICATION WITH REFUSE-CARRYING COMPARTMENT	SN: 439,308/08 F: 5/11/95 Pat. No. 5,582,322 Issued: 12/10/96	Issued 1st maintenance Fee Due 6/17/2000 Est. Cost: \$760	
ROTATIONALLY-MOLDED REFUSE CONTAINER WITH INTEGRALLY-MOLDED HANDLE SEALED FROM COMMUNICATION WITH REFUSE-CARRYING COMPARTMENT	SN: 439,565/08 F: 5/11/95 Pat. No.: 5,585,419 Issued: 12/17/96	Issued 1st Maintenance Fee Due 6/10/2000 Est. Cost: \$760	
REFUSE CONTAINER WITH DOUBLE WALL LID	SN: 820,539/07 F: 1/14/92 Pat. No.: 5,165,564 Issued: 11/24/92	Issued 2nd Maintenance Fee Due 5/24/2000 Est. Cost: \$1,275	
REFUSE CONTAINER LID WITH INTEGRALLY-FORMED HINGES	SN: 820,527 F: 1/14/92 Pat. No.: 5,167,351 Issued: 12/1/92	Issued 2nd Maintenance Fee Due 6/1/2000 Est. Cost: \$1,275	
REFUSE CONTAINER LID WITH SNAP-ON HINGES AND HINGE RETAINERS	SN: 820,538/07 F: 1/14/92 Pat. No.: 5,193,708 Issued: 3/16/93	Issued 2nd Maintenance Fee Due 9/16/2000 Est. Cost: \$1,275	
BLOW-MOLDED CONTAINER WITH BLOW-MOLDED HANDLE	SN: 820,544/07 F: 1/14/92 Pat. No.: 5,261,562 Issued: 11/16/93	Issued 1st Maintenance Fee Due 11/16/97 Est. Cost: \$760	
CONTAINER EMPTYING APPARATUS, ASSEMBLY AND METHOD	SN: 366,789 F: 1/14/89 Pat. No.: 4,948,324 Issued: 8/14/90	Issued 2nd Maintenance Fee Due 2/14/98 Est. Cost: \$1,275	

U.S. PATENTS

TITLE OF FILE	SERIAL NO./FILING DATE PAT. NO./ISSUE DATE	STATUS	EXP./ABAND. DATE
CONTAINER EMPTYING APPARATUS, ASSEMBLY AND METHOD	SN: 507,676 F: 4/10/90 Pat. No.: 5,006,039 Issued: 4/9/91	Issued 2nd Maintenance Fee Due 10/9/98 Est. Cost: \$1,275	
WEIGHING APPARATUS FOR WEIGHING THE CONTENTS OF A REFUSE CONTAINER AND METHOD	SN: 657,647 F: 2/19/91 Pat. No.: 5,119,894 Issued: 6/9/92	Issued 2nd Maintenance Fee Due 12/9/99 Est. Cost: \$1,275	
PORTABLE TRASH CONTAINER	SN: 030,593/29 F: 11/03/94 Pat. No.: D365,428 Issued: 12/19/95	Issued Expires 12/19/2009 (Design Patent)	
STOP BAR SUPPORT FOR REFUSE CONTAINER	SN: 037,246/29 F: 4/7/95 Pat. No.: D374,530 Issued: 10/8/96	Issued Expires 10/8/2010 (Design Patent)	
TILT TRUCK	SN: 044,686/29 F: 9/29/95 Pat. No.: Issued:	Allowed Issue Fee Paid 1/28/97	
UTILITY TRUCK	SN: 044,696/29 F: 9/29/95 Pat. No.: Issued:	Allowed Status Check to be Filed	
ROTATIONALLY-MOLDED ARTICLE	SN: 758,181/08 F: 11/25/96 Pat. No.: Issued: Issued:	Pending Awaiting Action by PTO	
ROVER LIFTER	SN: F: Pat. No.: Issued:	Unfiled	
COMPOSITION FOR ROTATIONAL-MOLDING	SN: 758,148/08 F: 11/25/96 Pat. No.: Issued:	Awaiting Action by PTO; Foreign Applns. by 11/25/97	
INTERNAL TEMPERATURE CONTROL SYSTEM AND METHOD FOR ROTATIONAL MOLD	SN: 041,113/60 F: 3/20/97 Pat. No.: Issued:	Regular Appln. Due 3/20/98 Foreign Applns. due 3/20/98	

**FOREIGN PATENTS**

TITLE OF FILE	COUNTRY	SERIAL NO./FILE DATE PAT.NO./ISSUE DATE	STATUS	EXP./ABAND. DATE
ROTATIONALLY-MOLDED REFUSE CONTAINER WITH INTEGRALLY-MOLDED HANDLE SEALED FROM COMMUNICATION WITH REFUSE-CARRYING COMPARTMENT	PATENT COOPERATION TREATY	SN: PCT/US96/12062 F: 7/22/96 Pat. No.: Issued:	Pending Chapter II Deadline 2/22/98 Nat Phase: 3/22/98 or 1/22/99	
ROTATIONALLY-MOLDED REFUSE CONTAINER WITH INTEGRALLY-MOLDED HANDLE SEALED FROM COMMUNICATION WITH REFUSE-CARRYING COMPARTMENT	EUROPEAN PATENT OFFICE	SN: 95305253.7 F: 7/27/95 Pat No.: Issued:	Published	Abandoned 7/27/97
REFUSE CONTAINER WITH DOUBLE WALL LID	JAPAN	SN: 154758/92 F: 6/15/92 Pat No.: Issued:	Assigned to Sekisui	
REFUSE CONTAINER WITH INTEGRALLY-FORMED HINGES	JAPAN	SN: 154756/92 F: 6/15/92 Pat. No.: Issued:	Assigned to Sekisui	
REFUSE CONTAINER LID WITH SNAP-ON HINGES AND HINGE RETAINERS	JAPAN	SN: 154757/92 F: 6/15/92 Pat. No.: Issued:	Assigned to Sekisui	
BLOW-MOLDED CONTAINER WITH BLOW-MOLDED HANDLE	JAPAN	SN: 154760/92 F: 6/15/92 Pat. No.: Issued:	Assigned to Sekisui	
WEIGHING APPARATUS FOR WEIGHING THE CONTENTS OF A REFUSE CONTAINER AND METHOD	JAPAN	SN: 31654 F: 2/19/92 Pat. No.: Issued:	Assigned to Sekisui	
WEIGHING APPARATUS FOR WEIGHING THE CONTENTS OF A REFUSE CONTAINER AND METHOD	CANADA	SN: 2,061,276 F: 2/14/92 Pat. No.: Issued:	Request for Exam Due: 2/19/99 Maint. Fee Due: 2/14/98 Est. Cost \$450	
ROTATIONALLY MOLDED CONTAINER RIM	PCT		Ch.II Demand Filed 7/5/97 National Phase Due: 6/5/98	



**SCHEDULE II**

**Trademarks and Trademark Applications**

**U.S. TRADEMARKS**

<b>MARK</b>	<b>SERIAL NO./FILE DATE REGISTRATION NO./ ISSUE DATE</b>	<b>STATUS</b>	<b>COMMENTS</b>
TOMORROW'S WASTE SOLUTIONS	SN: F: Reg. No.: 1,650,311 Issued: 7/9/91	Registered	Next Renewal: 7/9/01 Sec. 8 and 15 Declaration Filed: 7/7/97
WORKSAVER	SN: 583,402/74 F: 10/7/94 Reg. No.: 1,921,515 Issued: 9/26/95	Registered	Next Renewal: 9/26/05 Sec. 8 and 15 Declaration Due: 9/26/2001
TOTER WORKSAVER	SN: 040,820/74 F: 3/21/90 Reg. No.: 1,866,108 Issued: 12/6/94	Registered	Next Renewal: 12/6/04 Sec. 8 and 15 Declaration Due: 12/06/2000
TOTER	SN: 592,473 F: 4/9/86 Reg. No.: 1,426,599 Issued: 1/27/87	Registered	Next Renewal: 1/27/07
POWER LIFT	SN: 74-035,465 F: 2/28/90 Reg. No.: 1,643,186 Issued: 4/30/91	Abandoned	
TRIMLIFT	SN: 178,100/74 F: 6/20/91 Reg. No.: 1,688,757 Issued: 5/26/92	Registered	Next Renewal: 5/26/02
HIGHLIFT	SN: 178,053/74 F: 6/20/91 Reg. No.: 1,713,060 Issued: 9/8/92	Registered	Next Renewal: 1/26/03 Sec. 8 and 15 Declaration Due: 5/26/98
SMART WAY	SN: 148,050/74 F: 3/15/91 Reg. No.: 1,749,133 Issued: 1/26/93	Registered	Next Renewal: 1/26/03 Sec. 8 and 15 Declaration Due: 9/8/98
ATLAS	SN: 225,165/74 F: 11/25/91 Reg. No.: 1,780,831 Issued: 7/6/93	Registered	Next Renewal: 7/6/03 Sec. 8 and 15 Declaration Due: 1/26/99
BAR-LOC	SN: 276,411/74 F: 5/18/92 Reg. No.: 1,789,437 Issued: 10/12/93	Registered	Next Renewal: 10/12/03 Sec. 8 and 15 Declaration Due: 10/12/99
RUGGED RIM	SN: 650,057/74 F: 3/22/95 Reg. No.: 2,046,457 Issued: 3/18/97	Registered	Next Renewal: 3/18/07 Sec. 8 and 15 Declaration Due: 3/18/2003
HANDS OFF	SN: 650,255/74 F: 3/22/95 Reg. No.: Issued:	Allowed	Statement of Use Due: <u>10/16/97</u>

U.S. TRADEMARKS

MARK	SERIAL NO./FILE DATE REGISTRATION NO./ ISSUE DATE	STATUS	COMMENTS
HANDS FREE	SN: 650,082/74 F: 3/22/95 Reg. No.: 2,041,187 Issued: 2/25/97	Registered	Next Renewal: 2/25/07 Sec. 8 and 15 Declaration Due: 2/25/2003
FUSION		Not Yet Filed	Search Completed 2/96
ROVER	SN: 194,332/75 F: 11/7/96 Reg. No.: Issued:	Pending Office Action dated 5/22/97 Response Due <u>11/22/97</u>	
HANDS FREE	SN: 139,052/75 F: 7/24/96 Reg. No.: Issued:	Published 4/1/97	
SECURE LOCK	SN: 154,803/75 F: 8/23/96 Reg. No.: Issued:	Published 5/13/97	
EASY ROLL		Not Yet Filed	Search Completed 8/96
YARD MASTER		Not Yet Filed	Search Completed 11/96
PEBBLE CREEK		Full Search Underway	
THE WORLD'S TOUGHEST CARTS		Prel. Search Completed - 7/97	

FOREIGN TRADEMARKS

MARK	COUNTRY	SERIAL NO./ FILING DATE REG. NO./ISSUE DATE	GOODS/SERVICES	STATUS	COMMENTS
TOTER	BENELUX	SN: 64450 F: 9/6/88 Reg. No.: 457618 Issues: 10/2/89	Receptacles, in particular portable plastic receptacles	Registered	Next Renewal: 9/6/98
TOTER	CANADA	SN: 561,534 F: 10/30/87 Reg. No.: 333598 Issued: 10/30/87	Containers, namely portable containers for trash and waste	Registered	Next Renewal: 10/30/02
TOTER	CANADA	SN: 574,429 F: Reg. No.: 336816 Issued: 2/5/88	Leasing trash containers equipped with wheels	Registered	Next Renewal: 2/5/03

**FOREIGN TRADEMARKS**

MARK	COUNTRY	SERIAL NO./ FILING DATE REG. NO./ISSUE DATE	GOODS/SERVICES	STATUS	COMMENTS
TOTER	FRANCE	SN: 947872 F: 8/9/88 Reg. No.: 1482273 Issued:	Portable plastic receptacles	Registered	Next Renewal: 8/9/98
TOTER	GERMANY	SN: F: Reg. No.: 1,141,554 Issued: 6/20/98	Containers, namely portable plastic containers on wheels	Registered	Next Renewal: 8/19/98
TOTER	HONG KONG	SN: 1483/1991 F: Reg. No.: B03282/1993 Issued: 3/5/91	Portable plastic containers on wheels for trash and . . .	Registered	Next Renewal: 3/5/98
TOTER	ITALY	SN: 37167C/88 F: 10/31/88 Reg. No.: 551035 Issued: 10/16/91	Portable plastic containers on wheels	Registered	Next Renewal: 10/31/98
TOTER	MEXICO	SN: 184138 F: 11/25/93 Reg. No.: 452337 Issued: 2/14/94	Portable plastic receptacles on wheels	Registered	Next Renewal: 11/25/03
TOTER	SINGAPORE	SN: 1131/91 F: 2/26/91 Reg. No.: B1131/91 Issued:	Portable wheeled containers and waste material collectors	Registered	Next Renewal: 2/26/98
TOTER	SWITZERLAND	SN: F: Reg. No.: 365.284 Issued: 8/16/88	Household containers made of plastic	Registered	Next Renewal: 8/16/08
TOTER	TAIWAN	SN: 80004401 F: 1/29/91 Reg. No.: 00535279 Issued: 10/16/91	Containers, namely portable plastic containers on wheels	Registered	Next Renewal: 10/16/01
TOTER	UNITED KINGDOM	SN: 1354649 F: Reg. No.: B1354649 Issued: 8/12/88	Portable wheeled containers	Registered	Next Renewal: 8/12/05
TOTER	ARGENTINA	SN: 2062863 F: 12/26/96 Reg. No.: Issued:	Containers, namely portable plastic containers on wheels for trash and waste material collectors for domestic use	Pending	
TOTER	BRAZIL	SN: 819374361 F: 4/4/97 Reg. No.: Issued:	Containers, namely portable plastic containers on wheels for trash and waste material collectors for domestic use	Pending	
TOTER	PERU	SN: 029046 F: Reg. No.: Issued:	Containers, namely portable plastic containers on wheels for trash and waste material collectors for domestic use	Pending	Status Inquiry Pending

**FOREIGN TRADEMARKS**

<b>MARK</b>	<b>COUNTRY</b>	<b>SERIAL NO./ FILING DATE REG. NO./ISSUE DATE</b>	<b>GOODS/SERVICES</b>	<b>STATUS</b>	<b>COMMENTS</b>
SMART WAY	FRANCE	SN: 324603 F: 12/12/91 Reg. No.: 1711351 Issued:	Mechanical dumpers for the collection, transport, and . . .	Registered	Next Renewal: 12/12/01
SMART WAY	UNITED KINGDOM	SN: 1485753 F: 12/14/91 Reg. No.: 1485753 Issued: 12/14/91	Mechanical dumpers for the collection, transport, and . . .	Registered	Next Renewal: 12/14/98
SMART WAY	UNITED KINGDOM	SN: 1485754 F: 12/14/91 Reg. No.: B1485754 Issued: 12/14/91	Carts, carts for refuse and recyclables; parts and fittings for all the aforesaid goods	Registered	Next Renewal: 12/14/98
SMART WAY	CANADA	SN: 696,177 F: 12/24/92 Reg. No.: 422,572 Issued: 1/28/94	Carts for refuse and recyclables	Registered	Next Renewal: 1/28/09
ATLAS	TAIWAN	SN: 81011288 F: 3/13/92 Reg. No.: 00592590 Issued: 5/1/93	Refuse carts and vehicles and component parts	Registered	Next Renewal: 9/30/02

**SCHEDULE III**

**Copyrights**

None.

**SCHEDULE IV**

**License Agreements**

None.

EXHIBIT A

ASSIGNMENT OF PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES

THIS ASSIGNMENT OF PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES (this "Assignment") is made as of this 27th day of January, 1999 by TOTER, INCORPORATED, a North Carolina corporation ("Grantor") in favor of BRANCH BANKING AND TRUST COMPANY, a North Carolina banking corporation, as Lender ("Lender"). All capitalized terms used but not otherwise defined herein shall have the respective meanings assigned thereto in the Loan Agreement (as defined below).

WITNESSETH:

WHEREAS, Lender and Grantor are party to a Loan Agreement dated as of the date hereof (as amended, modified, extended or supplemented from time to time, the "Loan Agreement") pursuant to which Lender has agreed to make certain financial arrangements available to Grantor consisting of (i) an industrial real estate term loan of up to \$3,850,000, (ii) a revolving working capital loan of up to \$10,000,000, (iii) an equipment term loan of up to \$4,500,000 and (iv) a capital expenditures loan of up to \$2,500,000 (collectively, the "Loans"); and

WHEREAS, each Loan is evidenced by its respective Note dated as of the date hereof executed by Grantor in favor of Lender; and

WHEREAS, Grantor has entered into an Intellectual Property Security Agreement (the "IP Security Agreement") dated as of January 27, 1999 pursuant to which Grantor has granted to Lender a security interest in the Trademarks, Copyrights, Licenses and Patents defined below in order to secure its obligations under the Loan Agreement and the other Loan Documents; and

WHEREAS, Grantor (a) has adopted and used and is using the trademarks and service marks (the "Trademarks") identified on Annex I hereto, and is the owner of the registrations of and pending registration applications for such Trademarks in the United States Patent and Trademark Office identified on Annex I hereto, (b) is the owner of and uses the copyrights, copyright registrations and pending registration applications set forth on Annex II hereto (the "Copyrights"), (c) is a party to and has rights under the licenses and license agreements listed on Annex III hereto (the "Licenses") and (d) is the owner of and uses the patents, patent registrations and pending registration applications set forth on Annex IV hereto (the "Patents" and together with the Trademarks, the Copyrights and the Licenses, the "Collateral"); and

WHEREAS, Lender desires to acquire the Trademarks, the Copyrights, the Licenses and the Patents and the registrations thereof and registration applications therefor, as applicable, in connection with the exercise of its remedies after the occurrence of an Event of Default under the Loan Agreement.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Grantor does hereby assign, sell and transfer unto Lender all right, title and interest in and to the Trademarks, Copyrights, Licenses and Patents, together with (i) the registrations of and registration applications therefor, as applicable, (ii) the goodwill of the business symbolized by and associated with the Trademarks and the registrations thereof, (iii) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Trademarks,

Copyrights, Patents or the registrations thereof or such associated goodwill, and (iv) all rights of Grantor to enforce all Licenses.

Grantor hereby grants to Lender and notice is hereby given that Grantor has granted to Lender a first priority security interest in the Collateral to secure the payment and performance in full of all of the obligations of Grantor under the Loan Agreement and the other Loan Documents.

This Assignment is intended to and shall take effect as a sealed instrument at such time as Lender shall complete this instrument by signing its acceptance of this Assignment below.

[Signature page follows.]



IN WITNESS WHEREOF, the parties have duly executed this Assignment of Patents, Trademarks, Copyrights and Licenses on the day and year first written above.

**GRANTOR:**

**TOTER, INCORPORATED**

ATTEST:

\_\_\_\_\_  
( ) Secretary  
[Corporate Seal]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The foregoing assignment of the Patents, Trademarks, Copyrights and Licenses and the registrations thereof and registration applications therefor by the Assignee and Lender is hereby accepted as of the \_\_\_ day of \_\_\_\_\_, 19\_\_.

**BRANCH BANKING AND TRUST COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, personally appeared \_\_\_\_\_ to me known personally, and who, being by me duly sworn, deposes and says that he is the \_\_\_\_\_ of \_\_\_\_\_, and that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said \_\_\_\_\_ acknowledged said instrument to be the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public  
My commission expires:

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, personally appeared \_\_\_\_\_ to me known personally, and who, being by me duly sworn, deposes and says that s/he is the \_\_\_\_\_ of Branch Banking and Trust Company, a North Carolina banking corporation, and that foregoing instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors, and said \_\_\_\_\_ acknowledged said instrument to be the free act and deed of said national banking association.

\_\_\_\_\_  
Notary Public  
My commission expires:

ANNEX I  
REGISTRATIONS

<u>Trademark or Service Mark</u>	<u>U.S. Patent and Trademark Office Registration No.</u>	<u>Registration Date</u>
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*[List chronologically in ascending numerical order]*

PENDING APPLICATIONS

<u>Trademark or Service Mark</u>	<u>U.S. Patent and Trademark Office Serial No.</u>	<u>Filing Date</u>
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*[List chronologically in ascending numerical order]*

ANNEX II

Part I

Copyrights Registered with U.S. Copyright Office

Title	Author(s)	Number	Copyright Date	Registration
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Part II

Copyrights Not Registered

Title	Author(s)
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ANNEX III

Licenses

ANNEX IV

REGISTRATIONS

Patent

U.S. Patent and Trademark  
Office Registration No.

Registration Date

*[List chronologically in ascending numerical order]*

PENDING APPLICATIONS

Patent

U.S. Patent and Trademark  
Office Serial No.

Filing Date

*[List chronologically in ascending numerical order]*

EXHIBIT B

INTELLECTUAL PROPERTY SECURITY AGREEMENT SUPPLEMENT

**THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT SUPPLEMENT** (this "Supplement"), dated as of \_\_\_\_\_, 19\_\_ is made by and between \_\_\_\_\_ ("Grantor"), and **BRANCH BANKING AND TRUST COMPANY**, a North Carolina banking corporation, as Lender ("Lender"), in connection with the Loan Agreement dated as of January 27, 1999 among the Lender and **TOTER, INCORPORATED** (the "Loan Agreement"). All capitalized terms used but not otherwise defined herein shall have the respective meanings assigned thereto in the Intellectual Property Security Agreement (as defined below).

**WHEREAS**, Grantor is required under the terms of the Loan Agreement and that certain Intellectual Property Security Agreement dated as of January 27, 1999 by Grantor in favor of Lender (the "Intellectual Property Security Agreement") to cause certain intellectual property owned by it and listed on Schedules I, II, III and IV to this Supplement (the "Additional Collateral") to become subject to the Intellectual Property Security Agreement; and

**WHEREAS**, a material part of the consideration given in connection with and as an inducement to the execution and delivery of the Loan Agreement by the Lender was the obligation of Grantor to grant a security interest in the assets described herein to Lender, whether then owned and not required to be subject to a pledge or subsequently acquired or created; and

**WHEREAS**, the Lender has required Grantor to grant to Lender a security interest in the Additional Collateral in accordance with the terms of the Loan Agreement and the Intellectual Property Security Agreement.

**NOW, THEREFORE**, Grantor hereby agrees as follows with Lender:

1. Grantor hereby affirms and acknowledges the grant of security interest in the Additional Collateral contained in the Intellectual Property Security Agreement and hereby grants to Lender a first priority lien and security interest in the Additional Collateral listed on Schedules I, II, III and IV and all proceeds thereof.

2. Grantor hereby acknowledges, agrees and confirms that, by its execution of this Supplement, the Additional Collateral constitute "Collateral" under and is subject to the Intellectual Property Security Agreement. Each of the representations and warranties with respect to Collateral contained in the Intellectual Property Security Agreement is hereby made by Grantor with respect to the Additional Collateral. Revised Schedules I, II, III and IV to the Intellectual Property Security Agreement reflecting the Additional Collateral are being delivered herewith to Lender.



IN WITNESS WHEREOF, the Pledgor has caused this Supplement to be duly executed by its authorized officer as of the day and year first above written.

ATTEST:

\_\_\_\_\_  
( ) Secretary  
[Corporate Seal]

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Acknowledged and accepted:

**BRANCH BANKING AND TRUST COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_