­CONSENT AND HYPOTHECS

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This Consent and Hypothecs Agreement (the “Agreement”) is effective [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Borrower"), a company organised and existing under the laws of the Province of [STATE/PROVINCE], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [COMPANY NAME]** (the "Lender"), a company organised and existing under the laws of the Province of [STATE/PROVINCE], with its head office located at:

 [COMPLETE ADDRESS]

WHEREAS [YOUR COMPANY NAME], entered into a first Contract of Loan and Hypothecs dated as of [DATE] (the “First Hypothec”) pursuant to which the Lender made a loan in favour of the Borrower in the principal amount of [AMOUNT], bearing interest at the rate of [%] per annum, for the purpose of [SPECIFY EQUIPMENT ACQUIRED WITH LOAN]. Pursuant to this the Borrower granted a movable hypothec without delivery in favour of the Lender in the [EQUIPMENT] so acquired, bearing serial numbers [NUMBERS];

WHEREAS a notice of the granting of the First Hypothec was registered at [PLACE OF REGISTRATION] at [TIME] a.m/p.m. on [DATE] under the number [NUMBER] (the “First Registration”);

WHEREAS [YOUR COMPANY NAME] entered into a second Contract of Loan and Hypothecs dated as of [DATE] (the “Second Hypothec”) pursuant to which the Lender made a loan in favour of the Borrower in the principal amount of [AMOUNT], bearing interest at the rate of [%] per annum, for the purpose of acquiring certain additional [EQUIPMENT] from [EQUIPMENT MANUFACTURER] and pursuant to which the Borrower granted a movable hypothec without delivery in favour of the Lender in the machines so acquired;

WHEREAS notice of the granting of the Second Hypothec was registered at the Register of Personal and Movable Real Rights at HOUR a.m/p.m. on [DATE] under the number [NUMBER] (the “Second Registration”);

WHEREAS the Borrower has advised the Lender in writing by letter dated [DATE] that the [EQUIPMENT] is to be exchanged for [EQUIPMENT] of equal value bearing serial numbers [NUMBERS] (the “Replacement Machines”);

WHEREAS the Borrower has accordingly asked the Lender to consent to the exchange of the [EQUIPMENT] for the Replacement Machines and to release the [EQUIPMENT] from the First Hypothec, and has agreed to confirm that the First Hypothec extends to and covers the Replacement Machines and to grant a movable hypothec without delivery in favour of the Lender against the Replacement Machines;

**WHEREFORE THE PARTIES HAVE AGREED WITH EACH OTHER AS FOLLOWS:**

**1. CONSENT**

The Lender hereby consents to the exchange by the Borrower of the [EQUIPMENT] hypothecated in favour of the Lender under the First Hypothec, as published by the First Registration, for the Replacement Machines more particularly described below, and releases the [EQUIPMENT] from the First Hypothec.

**2. CONFIRMATION OF PREVIOUS HYPOTHEC**

[YOUR COMPANY NAME] confirms that the Replacement Machines are subject to the movable hypothec without delivery created under the First Hypothec, as published by the First Registration, being machinery and equipment subsequently acquired or held by the Borrower *in re*placement or substitution for such existing machinery and equipment.

**3. PRINCIPAL HYPOTHEC**

Notwithstanding the foregoing, as additional collateral security for the performance of its obligations, present and future, direct and indirect, absolute and contingent, towards the Lender under the terms of each of the First Hypothec and of the term note executed by the Borrower in favour of the Lender concurrently therewith in the respective principal amounts of the loans made thereunder (the “Term Note”), including without limiting the generality of the foregoing, the obligation to repay in principal, interest, fees and accessories, all moneys presently owing and due and hereafter to become owing and due to the Lender by the Borrower hereunder and under the Term Note.

The Borrower hereby hypothecates as and by way of a movable hypothec on specific property without delivery in favour of the Lender, from this date, for an amount of [AMOUNT] in lawful money of [COUNTRY], with interest thereon at the rate of [%] and [%] per annum, calculated monthly and not in advance.

The Replacement Machines, together with all the machinery and equipment hereinafter acquired or held by the Borrower *in re*placement or substitution for such existing machinery and equipment (hereinafter collectively referred to as the “Equipment”), and the proceeds of all insurance policies payable to the Borrower with respect to the Equipment (hereinafter collectively referred to as the “Insurance Proceeds”); (the Insurance Proceeds and the Equipment are hereinafter collectively referred to as the “Hypothecated Property”).

**4. ADDITIONAL HYPOTHEC**

4.1 Furthermore, as further collateral security for the payment of all amounts due or to become due to the Lender by the Borrower under the First Hypothec or under the Term Note which are not secured by the principal hypothec granted under the provisions of section 3, including without in any way limiting the generality of the foregoing, insurance premiums, interest on overdue interest, advances made by the Lender and interest thereon and all reasonable costs and expenses arising from the realisation of the security created herein.

4.2 Also all amounts which shall always be payable by the Borrower but which may be advanced by the Lender and paid by the Lender for and on behalf of the Borrower, the Borrower hereby hypothecates the Hypothecated Property as and by way of an additional movable hypothec on specific property without delivery, in favour of the Lender, for an additional amount of [AMOUNT], in lawful money of [COUNTRY], with interest thereon at the rate of [%] and [%] per annum, calculated monthly and not in advance.

**5. LOCATION OF HYPOTHECATED PROPERTY**

5.1 The Hypothecated Property shall be and remain located at the premises owned by the Borrower at [YOUR COMPLETE ADDRESS].

5.2 If the said location or establishment is changed, the Borrower shall immediately inform the Lender thereof in writing of the new location or establishment.

**6. REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents and warrants that:

6.1 the aggregate value of the Replacement Machines is at least equal to the aggregate value of the [EQUIPMENT ACQUIRED UNDER FIRST HYPOTHEC];

6.2 all of the Equipment is new;

6.3 all of the Equipment has been paid for in full and belongs to it in sole and absolute ownership, free and clear of all hypothecs, priorities and charges whatsoever, other than any charges in favour and subordinated in favour of the Lender;

6.4 none of the Equipment acquired from an enterprise has been so acquired out of the ordinary course of business of that enterprise;

6.5 all of the Equipment is movable property and that none of it forms an integral part of an immovable or is united or permanently physically attached or joined to an immovable;

6.6 all of the Equipment is currently in its possession; and

6.7 all national, [state/provincial] and other tax returns of the Borrower have been duly filed and all national, [state/provincial] and other taxes, assessments and other governmental charges or levies upon the Borrower and any of its property, income, profits and assets, which are due and payable, have been paid.

**7. INTERPRETATION**

7.1 All the terms and conditions of each of the First Hypothec not herein specifically reproduced, excluded or amended are herein incorporated by reference as if herein set forth at length.

7.2 All terms and conditions of the First Hypothec and Second Hypothec not expressly amended by the present Consent and Hypothecs shall remain in full force and effect, without modification.

7.3 This Consent and Hypothecs is governed by the laws of the [State/Province] of [STATE/PROVINCE] and the laws of [COUNTRY] applicable therein.

**8. SURETY**

8.1 [NAME], domiciled and residing at [FULL ADDRESS] (the “Surety”) hereby intervenes in this contract, takes cognizance of the terms hereof, and binds himself solidarity with the Borrower, waiving all benefits of division and discussion, for the performance of all of the Borrower’s obligations under the terms of this contract immediately upon request from the Lender to do so.

8.2 The Surety declares having received from the Lender sufficient explanation of the nature and extent of the terms and conditions of this contract and of the obligations of the Surety, the Borrower and of the Lender deriving therefrom.

**9. MISCELLANEOUS**

9.1 The security granted to the Lender under these presents shall be in addition to and without prejudice to or novation of any other security, by whomsoever given, held at any time by the Lender, and the Lender shall be under no obligation to sell or realise any such other security or any of the funds or assets.

The Lender may be entitled to receive or have a claim upon and the Lender may in its absolute discretion and without diminishing the security created hereunder, grant extensions of time or other indulgences with respect to the Loan and security given therefore and give up or modify, vary, exchange, renew or abstain from perfecting or taking advantage of any security and may discharge any party or parties and accept or make any compositions or arrangements and realise upon any security when and in such manner as the Lender may see fit and such security shall not be reduced, affected or amended by these presents;

9.2 Any and all monies received by the Lender from the Borrower or others or from security and which are properly applicable *in re*duction of the Loan, in principal, interest, fees or accessories may be applied by the Lender upon such part of the Loan, in principal, interest, fees or accessories as the Lender in its absolute discretion sees fit.

9.3 Unless there be something in the subject or the context inconsistent therewith, words importing the singular only shall include the plural and *vice versa* and words importing the masculine gender shall include the feminine gender, and *vice versa* and all references to dollars shall mean [COUNTRY] dollars.

9.4 The division of these presents into articles, sections, subsections and paragraphs and the insertion of titles are only meant to be reference and do not affect the meaning or the interpretation of these presents.

9.5 This Consent and Hypothecs may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

BORROWER LENDER

Authorized Signature Authorized Signature

Print Name and Title Print Name and Title