

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF VALLE FOAM INDUSTRIES (1995) INC., DOMFOAM
INTERNATIONAL INC. and A-Z SPONGE & FOAM PRODUCTS LTD.

RESPONDENT'S MOTION RECORD of 361400 ONTARIO LIMITED

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
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ARRANGEMENT OF VALLE FOAM INDUSTRIES (1995) INC., DOMFOAM
INTERNATIONAL INC. and A-Z SPONGE & FOAM PRODUCTS LTD.

(the "Applicants")

AFFIDAVIT OF MARK TURKIENICZ

I, MARK TURKIENICZ, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am a representative of 631400 Ontario Limited (the "Landlord"), a creditor of the Applicant Valle Foam Industries (1995) Inc. ("Valle Foam"), which filed a Notice of Appearance in this matter on January 17, 2012.
2. The Landlord is owner of the building and property municipally known as 4 West Drive, in the City of Brampton, in the Regional Municipality of Peel (the "Property"). The sole tenant of the Property is Valle Foam. I am concerned that the Landlord's interest be protected in the event of any sale of Valle Foam's assets as proposed in the present

motion. I am particularly concerned by the prospect that there has been environmental contamination of the Property during the term of Valle Foam’s tenancy, as highlighted by Valle Foam itself in its materials filed herein.

The Lease

- 3. On April 1, 1994, the Landlord entered into a lease agreement with Valle Foam, then operating as 3025438 Canada Inc. (the “Lease”). The Lease was to run for a term of seven years and one month from the date of signing until April 30, 2001. Attached hereto and marked as Exhibit “A” is a copy of the lease.

- 4. On January 31, 2001, the Landlord entered into an Agreement Amending Terms of Lease with Valle Foam, *inter alia* specifying that 3025438 Canada Inc. was now operating as Valle Foam Industries (1995) Inc. and extending the term of the Lease. From time to time thereafter, the Landlord entered into further agreements amending the terms of the Lease. The latest amending agreement was signed by me on April 28, 2011 on behalf of the Landlord and by Tony Vallecoccia on behalf of the tenant, Valle Foam. Pursuant to the latest amendment, the terms of the original lease continue to be in force until April 30, 2016. Attached hereto and marked as Exhibit “B” are copies of the January 31, 2001 and April 28, 2011 Agreements Amending Terms of Lease.

Rent in Arrears

- 5. As of January 12, 2012, the date of the Initial Order herein, Valle Foam was in default of its rent for the Property. Attached hereto and marked as Exhibit “C” is a letter from the

Landlord’s solicitors to Valle Foam’s solicitors dated January 11, 2012 providing notice of default to Valle Foam. Paragraph 15 of the Affidavit of Tony Vallecoccia, sworn January 11, 2012 (the “First Vallecoccia Affidavit”) concedes that the Applicants are in arrears of their rental obligation at several of their premises, including two months in arrears at the Property.

- 6. According to paragraph 12 of the First Vallecoccia Affidavit and paragraphs 45-49 of the First Report of the Monitor, Deloitte & Touche Inc. (“Deloitte”), dated January 25, 2012 (the “Monitor’s Report”), the business of Valle Foam has closed in several of its other premises and has now been consolidated at Valle Foam’s premises on the Property. The Property continues to be used and run by Valle Foam in the manufacture of polyurethane foam products.

- 7. On January 17, 2012, Valle Foam paid rent to the Landlord prospectively from the date of the Initial Order until the end of the current month. Paragraph 8 of the Initial Order requires that rent be paid on a twice monthly basis, in advance (but not in arrears), for any leased premises that the Applicants have not terminated.

- 8. Deloitte has prepared a list of all creditors of the Applicants and the amounts and liabilities owed as required under the Initial Order of January 12, 2012. This list is referenced at paragraph 44(c) and (d) of the Monitor’s Report and has been published on Deloitte’s website. I have checked Deloitte’s website as recently as this morning, and the Landlord does not appear on the list of creditors prepared by Deloitte nor are any amounts owing in arrears of rent listed as liabilities of Valle Foam.

9. At the very least, the Landlord requests that Deloitte add its name, contact information, and amount of rental arrears owed to the list of creditors and that it receive all notices which are required to go out to creditors of the Applicants. Moreover, this oversight heightens my concern that the Landlord's position not be overlooked in the sale process for which Valle Foam, supported by Deloitte, requests authorization.

Environmental Issues and the Sale of Valle Foam

10. Paragraphs 50-52 of the Affidavit of Tony Vallecoccia, sworn January 25, 2012 (hereinafter, the "Second Vallecoccia Affidavit") indicate that the chemicals used by Valle Foam and stored at the Property are hazardous to the environment. These same concerns were expressed in paragraphs 16-18 of the First Vallecoccia Affidavit. The Property cannot be safely abandoned or rendered inoperative without a detailed plan and supervision in accordance with relevant environmental regulations. Paragraph 52 of the Second Vallecoccia Affidavit suggests that these chemicals and the premises in which they are stored would be included in any going concern sale.
11. Paragraph 16 of the First Vallecoccia Affidavit and Paragraph 21 of the Monitor's Report state that the premises of each Applicant, including the Property listed in paragraph 14, is specifically designed and modified to allow for the use of the chemical agents. These products must be carefully managed to avoid environmental contamination.
12. The motion to which this affidavit responds is, in part, being brought to authorize the sale of assets of the Applicants on a going concern basis. Those assets would, presumably, include the Lease for the Property and any other assets owned by Valle Foam and stored

within. Given the care required in dealing with the chemicals on site and the fact that the Property has been specifically designed to house and manage these chemicals, it seems likely that the Lease and all the assets contained on the Property would be transferred to a purchaser in the same industry of polyurethane foam manufacturing. Any purchaser would therefore continue to do business with these chemicals on the Property.

13. A number of provisions of the Lease are relevant to the current state of affairs at the Property and the prospect of any asset sale.
14. First, section 1.09 of the Lease requires the Valle Foam, as tenant, to maintain the premises in a good state of repair “to such standard as was evident on the date of occupation of the demised premises by the Tenant.” Any costs of bringing the Property up to this state of good repair are to be borne by Valle Foam as tenant and those costs “shall be paid forthwith by the Tenant to the Landlord upon demand as additional rent under this Lease.” Section 6.1 of the Lease makes it clear that Valle Foam’s obligation to bear these costs and indemnify the Landlord for such repairs include “any loss, damage, costs, expenses, and liability, arising out of or from, any contaminant, pollutant, or toxic substance (collectively “Substances”) at any time affecting the demised premises or any part thereof...”, and that “[t]he tenant shall forthwith pay to the Landlord on demand as additional rent all amounts claimed by the Landlord pursuant to the foregoing indemnity.”
15. There was no environmental contamination or degradation of the Property at the date that Valle Foam occupied it. In 1997, when the mortgage for the Property was renewed, an

environmental inspection and assessment of the Property was performed by Briggs Environmental Canada. The conclusion by Briggs at that time was that no environmental remediation of the Property was required. Valle Foam has been the sole tenant of the Property continuously since that time, and so any environmental contamination of the Property is a result of its tenancy and is its financial responsibility. Attached hereto and marked as Exhibit "D" is a copy of the report for 4 West Drive, Brampton, Ontario issued by Briggs Environmental Canada dated March 25, 1997 (without tables and schedules).

16. Now that Valle Foam is seeking to sell its assets, having indicated in its supporting affidavit (and further confirmed in the Monitor's Report) that there are environmental hazards with respect to the Property, the Landlord requires that a Phase II environmental site assessment be performed on the Property. As stated in the Lease, the cost of this assessment, together with any environmental cleanup and repair costs which such an assessment reveals need to be incurred in order to bring the Property up to a good state of repair, are to be borne by Valle Foam as additional rent. Such additional rent falls within the terms of paragraph 8 of the Initial Order to be paid by Valle Foam on an ongoing basis for as long as Valle Foam is a tenant of the Property.

17. In the event of an asset sale by Valle Foam and either the assignment of the tenancy under the Lease or the termination of the Lease, the costs of the environmental assessment and any repair costs indicated thereunder would become additional rent payable by Valle Foam as tenant for the period up to its assignment or termination of the Lease. The extent of those costs is not currently known, but will become clearer upon the performance of the necessary environmental assessment. In accordance with section

6.1 of the Lease, in the ordinary course this liability to pay environmental repair costs as rent and additional rent “shall survive the expiration or earlier termination of the Lease.”

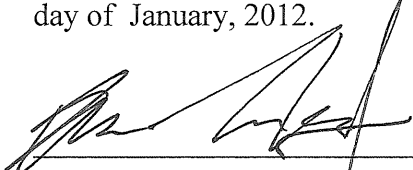
The Landlord therefore requests that any such rent and additional rent owing to the Landlord first be paid out of the proceeds of any Valle Foam asset sale as a condition of such sale before such proceeds are paid over to or further disbursed by Valle Foam.

18. I note that section 1.18 of the Lease contains the usual provision prohibiting Valle Foam as tenant from assigning or otherwise transferring or parting with possession of the Property without the consent of the Landlord, such consent not to be unreasonably or arbitrarily withheld. This is complemented by paragraph 13 of the Conditions of Sale (included in Exhibit “B” to the Second Vallecoccia Affidavit), which sets out the conditions under which prospective purchasers are invited to submit offers to purchase the assets of the Applicants, and which states that nothing therein constitutes an assignment of any asset which is not assignable without the consent of any person, if such consent is not obtained by the purchaser.

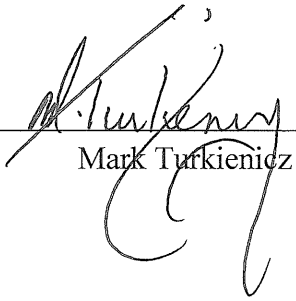
19. In the ordinary course the Landlord is within its rights to require that all repair and cleanup costs payable as rent and additional rent be paid in full as a condition of giving its consent to assignment of the Lease or upon termination of the Lease. In the Landlord’s view, any such payment should also be included as a condition of a court authorized sale such as that sought by the Applicants herein.

20. I make this affidavit in response to a Motion by the Applicants for an order authorizing the sale of the Applicants' assets, and for no improper purpose.

SWORN BEFORE ME at the)
City of Toronto, in the)
Province of Ontario, this 26th)
day of January, 2012.)

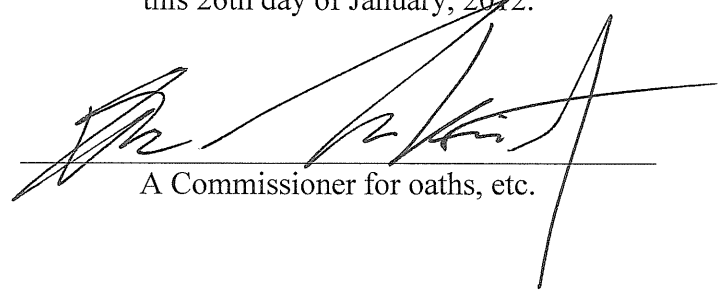


A commissioner for oaths, etc.
Eric Turkienicz



Mark Turkienicz

This is Exhibit "A" to the affidavit of Mark Turkienicz
sworn before me
this 26th day of January, 2012.



A Commissioner for oaths, etc.

THIS INDENTURE made as of the 1st day of April, 1994.

IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT

B E T W E E N:

631400 ONTARIO LIMITED,

(hereinafter called the "Landlord"),

OF THE FIRST PART,

- and -

3025438 CANADA INC.,

(hereinafter called the "Tenant"),

OF THE SECOND PART.

WITNESSETH that in consideration of the rents, covenants and agreements herein contained on the part of the Tenant, the Landlord hereby leases to the Tenant the land and premises municipally known as 4 West Drive, in the City of Brampton in the Regional Municipality of Peel, which are legally described in Schedule A hereto, including the whole of the building located thereon, containing approximately 147,544 square feet and all rights and appurtenances appertaining thereto, the said lands, premises, rights and appurtenances being hereinafter sometimes collectively referred to as the "demised premises" or the "premises".

TERM

To hold the premises for the term of seven (7) years and one (1) month from the 1st day of April, 1994 until the 30th day of April, 2001 together with the option to renew hereinafter provided, unless such term shall be sooner terminated as hereinafter provided. For the purposes of this Lease "term" means the term granted hereby and any renewal term arising upon the Tenant's exercise of the option to renew hereinafter provided.

RENTAL

The Tenant paying therefor yearly and every year during the term hereby granted the sum of \$553,290.00 of lawful money of Canada in twelve (12) equal monthly instalments of \$46,107.50, in advance on the first day of each calendar month (hereinafter referred to as

the "basic rent"), the first of such instalments to become due and payable on the 1st day of April, 1994.

RENEWAL

Provided that the Tenant is not then in default of its covenants and obligations hereunder, the Tenant shall have the option to extend the term of this Lease for two (2) periods of five (5) years each upon the following terms and conditions:

- (a) such options shall be exercised by the Tenant by notice in writing to the Landlord not less than six (6) months and not more than twelve (12) months prior to the expiry of the term or renewal term, as applicable, of this Lease;
- (b) each renewal term shall be upon the same terms and conditions, as in this Lease (save and except that upon exercising the first renewal option there shall be only one further option to renew and upon exercising the second renewal option there shall be no further option to renew this Lease) and provided that the annual basic rent payable during each renewal period shall be determined in accordance with paragraph (c) below;
- (c) during each renewal term the annual basic rent shall be the fair market rent for the demised premises at the commencement of the renewal term taking into consideration leases of comparable premises for comparable duration as mutually agreed upon by the Landlord and the Tenant, provided that in no event shall the annual basic rent payable during any renewal term be less than the annual basic rent during the last year of the previous term or renewal term, as applicable; and
- (d) the Landlord and the Tenant agree that upon the exercise by the Tenant of an option to renew this Lease and six (6) months prior to the expiry of the term or renewal term, as applicable, the Landlord and the Tenant shall commence and conduct in good faith negotiations to determine the annual basic rent payable by the Tenant during the upcoming renewal term. If the Landlord and the Tenant are unable to agree as to the amount of such basic rent prior to the commencement of the renewal term, the matter shall be submitted to arbitration in accordance with the *Arbitration Act* (Ontario) as follows:
 - (i) the issue shall be referred to a single arbitrator if the parties agree upon one, otherwise to three (3)

arbitrators, one to be appointed by the Tenant, one by the Landlord and a third to be appointed by the first two arbitrators selected before entering upon the business of the reference. The award or determination which shall be made by such arbitrators or a majority of them shall be made in accordance with the criteria set out in paragraph (e) above and shall be final and binding upon the parties hereto; and

- (ii) if either party shall refuse or neglect to appoint an arbitrator within seven (7) days after the other party shall have appointed an arbitrator and shall have served written notice upon the first mentioned party requiring such party to make an appointment of an arbitrator, then the arbitrator first appointed shall at the request of the party appointing him proceed to hear and determine the issue in dispute, as if he were a single arbitrator appointed by both parties in reference.

Pending the conclusion of such arbitration, the Tenant shall pay to the Landlord annual basic rent in an amount equal to the annual basic rent paid during the last year of the previous term or renewal term.

ARTICLE I

TENANT'S COVENANTS

The Tenant covenants with the Landlord as follows:

RENT

1.1 During the term hereof to pay to the Landlord the rent hereby reserved in the manner and at the times herein provided, without deduction, abatement or set off. For the purposes of this Lease "rent" means all basic rent, additional rent and other amounts payable by the Tenant hereunder whether to the Landlord or otherwise.

NET LEASE

1.2 The Tenant acknowledges and agrees that it is intended that this Lease shall be absolutely net and carefree to the Landlord, and that, except as otherwise expressly provided herein, the Landlord shall not be responsible for any costs, charges, expenses or matters of any nature whatsoever arising from or relating to the demised premises or the contents thereof or the business carried on therefrom.

TAXES

1.3 To pay in each and every year during the term hereof, as additional rent:

- (a) all taxes, rates, duties, charges and assessments whatsoever including local improvement rates, whether municipal, federal, provincial, school or otherwise, now or hereafter charged, levied, rated or assessed against the demised premises or any part thereof by any taxing authority and any taxes in lieu of, the taxes, rates, duties, charges and assessments hereinbefore referred to;
- (b) if the taxes in respect of the demised premises shall be increased by reason of any installations made in or upon, or any alteration made in or to the demised premises by the Tenant, the amount of such increase;
- (c) if the Tenant or any person, firm or corporation occupying the demised premises or any part thereof shall elect to have the demised premises or any part thereof assessed for separate school taxes, the amount by which the separate school taxes exceed the amount which would be payable for school taxes, had such election not been made.

CONTESTING TAXES

1.4 The Tenant may, at its expense, appeal or contest the taxes payable by the Tenant under paragraph 1.3 hereof, provided it first obtains the Landlord's prior written approval, which approval shall not be unreasonably withheld, delivers to the Landlord such security for the payment of such taxes as the Landlord deems advisable, acting reasonably, diligently prosecutes any such appeal or contest to completion and keeps the Landlord advised of its progress with respect thereto from time to time. The Tenant shall indemnify and hold harmless the Landlord from all losses, costs, charges and expenses, including, without limitation, interest and penalties arising as a result of the Tenant's failure to pay any taxes which are the subject of any appeal or contest in accordance with the foregoing.

BUSINESS TAXES

1.5 To pay as and when the same become due, and to save the Landlord in all respects harmless with respect thereto, all business taxes from time to time levied against, or payable by the Tenant in respect of, the Tenant's use or occupancy of the demised premises or any part thereof and the business carried on therein and all other taxes, rates, duties, charges and assessments levied against or in respect of the personal property, fixtures, facilities, business or other activity of the Tenant on or in the demised premises or any part thereof.

METHOD OF PAYMENT OF TAXES

1.6 To pay as and when the same become due, and to save the Landlord in all respects harmless with respect thereto, all taxes payable by the Tenant pursuant to paragraph 1.3 hereof directly to the appropriate taxing authority. The Tenant covenants and agrees, that if for any reason, the Tenant shall fail to pay any taxes as required pursuant to this paragraph 1.6, the Landlord, at its option, may make such payment on behalf of the Tenant and the Tenant shall forthwith pay to the Landlord on demand therefor the amount of such payment as additional rent. In the event that the Tenant is billed or assessed directly for any taxes payable pursuant to paragraph 1.3, the Tenant shall promptly provide copies of such bills or assessment notices to the Landlord and shall provide the Landlord with evidence of payment thereof.

UTILITIES

1.7 In each and every year during the term hereof to pay, satisfy and discharge directly or indirectly all charges in connection with water, electrical current, gas, rental charges for gas or electricity operated hot water heaters and other public or private utilities or services, extraordinary as well as ordinary, supplied at any time to the demised premises.

INDEMNITY BY TENANT

1.8 To indemnify and hold harmless the Landlord in respect of all losses, costs, charges, penalties and expenses occasioned by or arising from the non-payment of any and every tax (including any late payment charges, interest and penalties in respect thereof) for which the Tenant is responsible hereunder. This indemnity shall survive the expiration or earlier termination of this Lease anything herein to the contrary notwithstanding. The Tenant shall forthwith pay to the Landlord on demand as additional rent all amounts payable to the Landlord pursuant to the foregoing indemnity.

MAINTENANCE

1.9 To repair, replace and maintain the demised premises and all parts thereof, subject to only (i) reasonable wear and tear, (ii) the obligations of the Landlord pursuant to Section 3.4, and (iii) the provisions of Article IV of this Lease, to such standard as was evident on the date of occupation of the demised premises by the Tenant, including the replacement of electrical light bulbs, tubes, starters and ballasts.

If any repairs, replacements or maintenance which are required to be performed by the Tenant under the terms of this Lease are not performed when required, then the Landlord in its sole discretion shall be entitled to perform such repairs, replacements or maintenance entirely at the cost of the Tenant and the cost of same

shall be paid forthwith by the Tenant to the Landlord upon demand as additional rent under this Lease.

INSPECTION BY LANDLORD

1.10 Subject to paragraph 1.9 above, to comply with all reasonable requirements of the Landlord with respect to the care, maintenance and repair of the demised premises. It shall be lawful for the Landlord and its agents, at all reasonable times during the term, to enter the demised premises to inspect the condition thereof. Where an inspection reveals that repairs which are the obligation of the Tenant under this Lease are necessary, the Landlord shall give to the Tenant notice thereof in writing and thereupon the Tenant will, within thirty (30) days from the date of delivery of the notice, commence to make the necessary repairs and thereafter diligently proceed to complete such repairs in a good and workmanlike manner.

CONDITION OF PREMISES AT EXPIRATION

1.11 Subject to the provisions of paragraphs 1.9 and 1.10 and to the other provisions of this Lease, upon expiration or earlier termination of the term hereby granted, the Tenant will peaceably surrender, quit and deliver up the demised premises to the Landlord in the state of compliance with laws and absence of contaminants and the state of repair and maintenance required by the provisions of this Lease. The Tenant shall be fully responsible for any damage to the demised premises not excepted under this provision. The Landlord at its option may rectify such damage for which the Tenant is responsible hereunder at the cost of the Tenant and the Tenant shall forthwith pay such costs to the Landlord upon demand as additional rent under this Lease.

NOTICE OF DAMAGE

1.12 In the event of any damage to the demised premises by any causes, to give notice in writing to the Landlord of such damage forthwith upon the same becoming known to the Tenant.

ENTRANCES

1.13 At its own expense to keep entrance-ways and all steps and platforms leading thereto clear of all snow, ice and debris.

NUISANCES

1.14 That it will not carry on, or permit to be carried on in or about the demised premises, any business or activity which shall be deemed, upon reasonable grounds, to be a nuisance, nor will it omit to do, or permit to be omitted to be done anything in respect of the demised premises, the omission of which shall, upon reasonable grounds be deemed to be a nuisance, provided that the use of the premises for warehousing and storage of equipment shall be deemed not to be a nuisance.

USE OF PREMISES

1.15 The demised premises shall be used only for the purpose of manufacturing, warehousing, offices and other uses reasonably ancillary thereto.

INSPECTION BY MORTGAGEES

1.16 During the term hereby granted the Landlord and any prospective purchasers or mortgagees and, within the last three months of the term, prospective tenants, may inspect the demised premises or any part thereof at reasonable times on reasonable prior notice to the Tenant provided that the Tenant may elect to cause its employees or agents to be present at the time of such inspection.

HEATING

1.17 At its own expense, to heat the same with the heating equipment supplied by the Landlord. Any manufacturers' warranties with respect to such heating equipment are to be assigned to the Tenant.

ASSIGNING AND SUBLETTING

1.18 That it will not assign, sublet, transfer, pledge, mortgage, charge or otherwise encumber or dispose of, or part with or share possession of, the demised premises or any part thereof or any of its rights under this Lease (each a "Transfer"), without the consent of the Landlord in writing first had and obtained, such consent not to be unreasonably or arbitrarily withheld or delayed. Provided that as a condition of the granting of its consent, the Landlord may require any assignee, subtenant, transferee, pledgee, mortgagee, chargee or other encumbrancer, or any licensee or occupant of the demised premises or any part thereof (each a "Transferee") to execute an agreement whereby the Transferee agrees to be bound by all of the Tenant's obligations under this Lease as if the Transferee had executed this Lease in respect of the portion of the demised premises which is the subject of the Transfer. The Tenant shall furnish to the Landlord copies of all documentation in connection with a proposed Transfer and such further information, including financial statements and other financial information pertaining to the proposed Transferee, as the Landlord may reasonably require. No Transfer of the demised premises shall in any way release or be deemed to release the Tenant (or any guarantor hereof) from their obligations under the terms of this Lease. The Tenant agrees to pay the reasonable legal fees of the Landlord's solicitor relating to the preparation of the Landlord's consent to a Transfer.

Notwithstanding the foregoing, the Tenant shall be entitled, without the consent of the Landlord but upon prior notice to the Landlord, to mortgage or charge (a "Mortgage") this Lease and its rights hereunder to a Canadian chartered bank or a trust company (a "Mortgagee") as security for credit facilities provided by such Mortgagee to the Tenant and provided that such Mortgagee shall

execute an agreement with the Landlord whereby the Mortgagee agrees to be bound by all of the Tenant's obligations under this Lease in the event that the Mortgagee obtains possession of the demised premises and for so long as such possession may continue, the intention being that the Mortgagee shall not be so bound with respect to periods preceding or following its period of possession of the demised premises. Any Transfer of the Lease or the demised premises by the Mortgagee pursuant to any action or proceeding to enforce its Mortgage shall only be made with the Landlord's prior written consent as hereinbefore provided.

CHANGE OF CONTROL

1.19 If any transfer or issue by sale, assignment, bequest, inheritance, consolidation, subscription, operation of law or other disposition of any kind or nature of any shares of the Tenant or any corporation which, directly or indirectly, has effective control of the Tenant, results in any change in the present effective control of the Tenant as of the date of this Lease without the prior written consent of the Landlord, such consent not to be unreasonably or arbitrarily withheld or delayed, the Landlord may, upon notice in writing to the Tenant, elect to terminate this Lease. The Tenant shall make available for inspection by the Landlord on request all share registers and other books and records in its control which are relevant to the determination of whether a change of control of the Tenant has occurred under this paragraph. This paragraph shall not apply to a corporation whose shares are listed and traded on any recognized stock exchange in Canada and the United States.

ROOF

1.20 That it will not place anything on the roof, whether signs or otherwise, or in any way make any opening in the roof for stacks or other purposes, or in any way alter the walls, or structure of the demised premises without the prior written consent of the Landlord, such consent not to be unreasonably withheld or delayed.

INSURANCE

1.21 The Tenant shall, at its own cost and expense, obtain and maintain in full force and effect for the benefit of the Landlord at all times throughout the Term the following insurance:

- (a) insurance against loss or damage by fire and other perils now or hereafter from time to time embraced by or defined in a standard fire insurance policy with extended or additional perils supplemental coverage upon the demised premises and upon all property of every description and kind owned by the Tenant or for which the Tenant is legally liable and which is located on or within the demised premises to the extent of the full replacement value thereof;

- (b) boiler and machinery insurance on objects defined in the standard comprehensive boiler and machinery policy against accidents as defined therein with limits of not less than \$5,000,000 or such other amount as the Landlord shall from time to time reasonably require, which coverage shall include, without limitation, loss or damage of whatsoever kind or nature by reason of explosion or collapse by vacuum or cracking, burning, or bulging of any steam hot water boilers, pipes and accessories;
- (c) comprehensive public liability insurance with respect to the demised premises and the business carried on by the Tenant insuring the Landlord against any and all liability or claims of liability arising out of, occasioned by or resulting from any accident, death, personal injury, property damage or otherwise in or about the demised premises, for limits of not less than \$5,000,000 on an occurrence basis. The policy or policies of insurance shall be of a company or companies authorized to do business in the Province of Ontario and satisfactory to the Landlord, acting reasonably;
- (d) business interruption insurance in an amount sufficient to cover the Tenant's basic rent and additional rent for a period of not less than 12 months; and
- (e) any other form or forms of insurance that the Tenant or the Landlord or the Landlord's mortgagee may reasonably require from time to time in amounts and for insurance risks against which a prudent tenant would protect itself.

All such insurance policies maintained by the Tenant shall name the Tenant, the Landlord and such mortgagees or chargees of the Landlord as the Landlord shall notify the Tenant in writing, as co-insureds, and shall name the Landlord (or, at the Landlord's direction, the Landlord's mortgagees or chargees) as "loss payee". The Tenant shall before occupying the demised premises and thereafter at such times and from time to time as the Landlord may request provide the Landlord with certificates evidencing such insurance. All such insurance policies maintained by the Tenant shall contain a severability of interest clause, cross-liability coverage protecting the Landlord in respect of claims by the Tenant as if the Landlord were separately insured, a waiver of subrogation in favour of the Landlord and those for whom in law the Landlord is responsible, an undertaking by the insurer that no material change adverse to the Landlord or the Tenant shall be effected except after not less than 30 days' prior written notice to the Landlord and a

provision stating that the insurance policy shall be primary and shall not call into contribution any other insurance available to the Landlord, and the Landlord may require the Tenant to supply evidence thereof from time to time.

If any of the policies of insurance referred to in this paragraph 1.21 shall contain any co-insurance clause, unless otherwise consented to in writing by the Landlord, the Tenant shall maintain at all times a sufficient amount of insurance to meet the requirements of such co-insurance clause so as to prevent the Landlord or the Tenant from becoming a co-insurer under the terms of such policy or policies and to permit full recovery thereunder in the event of loss.

The policies of insurance referred to in this paragraph 1.21 may provide that the amount payable in the event of any loss shall be reduced by a deductible amount not, without the consent of the Landlord, exceeding in respect of the insurance required to be maintained under each of subparagraphs (a) to (e) above the sum of \$1,000.

At least 20 days prior to the expiration or termination date of any policy, the Tenant shall deliver renewal or replacement certificates to the Landlord.

If there is an actual or threatened cancellation of or adverse change in any policy of insurance on the demised premises by reason of anything done or permitted to be done by the Tenant anywhere on the demised premises and if the Tenant fails to remedy the situation giving rise to such actual or threatened cancellation or change within 24 hours after notice from the Landlord, then the Landlord may, at its option, either (i) terminate this Lease forthwith by written notice or (ii) remedy the situation giving rise to such actual or threatened cancellation or change, all at the sole cost of the Tenant to be paid to the Landlord forthwith upon demand, and for such purposes the Landlord shall have the right to enter upon the demised premises without further notice.

If the Tenant fails to maintain in force or pay any premiums for any insurance required to be maintained by the Tenant hereunder, or if the Tenant fails from time to time to deliver to the Landlord satisfactory proof of the good standing of any such insurance or the payment of the premiums therefor, then the Landlord, without prejudice to any other rights and remedies hereunder, shall have the right but not the obligation to effect such insurance on behalf of the Tenant and the cost thereof and all other reasonable expenses

incurred by the Landlord in that regard shall be paid by the Tenant to the Landlord forthwith upon demand therefor as additional rent.

INDEMNIFICATION:

1.22 To save, hold and keep harmless and indemnify the Landlord from and against:

- (a) any and all payments, expenses and costs including, without limitation, legal costs, and from and against any and all suits, claims and liability for losses or damage to property, death or injuries to persons occasioned wholly or in part by or resulting from any acts or omissions by the Tenant or the Tenant's agents, employees, guests, licensees, invitees, subtenants, assignees or successors, or from any cause or reason whatsoever arising out of or by reason of the occupancy of the demised premises by the Tenant and/or the conduct of the Tenant's business; and
- (b) all claims, judgments, damages, losses, penalties, fines, liabilities, encumbrances, security interests, liens, charges, costs and expenses, including, without limitation, reasonable lawyers', experts' and consultants' fees and disbursements in connection with loss of life, personal injury, damage to property or any other loss or injury arising from or out of any Substance (as defined in paragraph 6.1) existing on, in, under, or about the demised premises or any portion thereof by reason of any act or omission, during the term of the Lease, by the Tenant or its respective agents, employees, contractors, invitees or other persons for whom the Tenant is responsible at law.

This indemnity shall survive the expiration or earlier termination of this Lease anything herein to the contrary notwithstanding. The Tenant shall forthwith pay to the Landlord on demand as additional rent all amounts claimed by the Landlord pursuant to the foregoing indemnity.

LANDLORD'S NON-LIABILITY:

1.23 The Tenant agrees that the Landlord shall not be liable or responsible in any way for any injury or death to any person or for any loss or damage to any property at any time on or about the demised premises or any property owned by or being the responsibility of the Tenant or any of its servants, agents, consumers, contractors or persons for whom the Tenant is in law responsible on or about the demised premises, no matter how the same shall be caused whether or not resulting from or contributed to by any act or omission of the Landlord, its servants, agents, employees, contractors or persons for whom the Landlord is in law responsible.

REFUSE AND WASTE

1.24 Not to allow any ashes, refuse, garbage or other loose or objectionable material to accumulate in or about the demised premises, and not to store or cause to be stored outside of the building any of its inventory or stock-in-trade or raw materials other than in accordance with applicable laws. If the appropriate by-laws permit outside garbage containers, and if the consent of the Landlord is first obtained, which consent may not be unreasonably withheld or delayed, any such outside garbage containers to be used by the Tenant shall be securely closed on top.

UNLOADING

1.25 That all loading and unloading of merchandise, supplies, materials, garbage, refuse and other chattels shall be made only through or by means of such doorways or corridors as may have been designated by the Landlord for such purposes.

MISUSE OF DEMISED PREMISES

1.26 Not to bring upon the demised premises or any part thereof any machinery, equipment, article or thing that by reason of its weight, size or use might damage the demised premises or any part thereof and will not at any time overload the floors of the demised premises and that if any damage is caused to the demised premises or any part thereof by any machinery, equipment, article or thing or by piling or storing thereof or by overloading or by any act, neglect or misuse on the part of the Tenant or of its servants, agents or employees or any person having business with the Tenant, the Tenant will forthwith repair the same or pay to the Landlord the cost of making good such damage on demand. In the event of any default by the Tenant under this provision, the Landlord shall be entitled (but shall not be obligated) to repair the damage at the cost of the Tenant and the Tenant shall forthwith pay the cost of such repairs upon demand as additional rent. At the Landlord's option, the Landlord shall be entitled to require the Tenant to make such repairs forthwith upon notice.

EVIDENCE OF PAYMENTS BY TENANT

1.27 That the Tenant shall, from time to time, at the request of the Landlord, produce to the Landlord satisfactory evidence of the due payment by the Tenant of all payments required to be made by the Tenant under this Lease.

AIR-CONDITIONING

1.28 Not to place or attach anything to the outside of the windows or the exterior of the demised premises. No air-conditioning equipment shall be placed in the windows or shall extend from the exterior of the demised premises without the prior consent in writing of the Landlord, which consent may not be unreasonably or arbitrarily withheld.

LIENS

1.29 If any construction or other lien or any order or execution for the payment of money shall be filed against the demised premises by reason, or arising out of any labour or material, work or service furnished to the Tenant or to anyone claiming through the Tenant, the Tenant shall, within fifteen (15) days after notice to the Tenant of the filing thereof, cause the same to be discharged. The Tenant shall defend all suits to enforce such lien, order or execution whether against the Tenant or the Landlord at the Tenant's own expense. The Tenant hereby indemnifies the Landlord against any and all costs, expenses, damages and payments including, without limitation, legal costs, arising as a result of any breach of this paragraph 1.29 by the Tenant and this indemnity shall survive the expiration or earlier termination of this Lease. The Tenant shall forthwith pay to the Landlord on demand as additional rent all amounts claimed by the Landlord pursuant to the foregoing indemnity.

APPLICATION TO AMEND BY-LAWS

1.30 That it will not make any application or representation to or for any governmental body which would have the effect of, in any way, amending the provisions of any statutes by-laws, rules, regulations, ordinances or orders affecting the demised premises if such amendment will adversely affect the Landlord's reversionary interest in the demised premises without first obtaining the written consent of the Landlord, which may be arbitrarily withheld.

COMPLIANCE WITH LAWS

1.31 To comply promptly with and conform to the requirements of all applicable statutes, laws, by-laws, regulations, ordinances, orders and decrees from time to time or at any time in force during the term hereof affecting the condition, equipment, maintenance, use or occupation of the demised premises after receipt of any notice of non-compliance from a public authority having jurisdiction and that, in the event of a default by the Tenant under this paragraph 1.31, the Landlord may itself comply with any such requirements and the Tenant will forthwith pay to the Landlord all costs and expenses incurred by the Landlord in connection therewith upon demand as additional rent. The Tenant shall not be responsible for rectifying instances of non-compliance in existence as at the commencement of the term of this Lease and the Landlord shall indemnify and hold harmless the Tenant from any costs, expenses and liabilities resulting from any such instances of non-compliance with respect to the demised premises in existence as at the commencement of the term of this Lease. For greater certainty, the foregoing paragraph 1.31 shall not apply with respect to any federal, provincial, municipal or local environmental, health or safety laws, regulations, orders, directives, guidelines, requests or decrees in relation to the demised

premises all of which shall be governed by paragraph 6.2 of this Lease.

ARTICLE II

ADDITIONAL COVENANTS

REMOVAL OF TENANT'S FIXTURES

2.1 If the Tenant is not in default hereunder, the Tenant may remove its trade fixtures from the demised premises in the ordinary course of business and upon the expiration or other termination of this Lease, provided that the Tenant shall not remove or carry away from the demised premises any building or part thereof, or any plumbing, heating, ventilating or lighting equipment, wiring or electrical panels and services or other building services and equipment; and provided that the Tenant shall repair any damage occasioned by the installation or removal of its trade fixtures. If the Tenant, upon the expiration or other termination of this Lease, fails to remove from the demised premises any of its trade fixtures, plant, machinery or equipment, such fixtures, plant, machinery and equipment shall become the property of the Landlord free of any liens or claims provided that the Landlord may, at its option, remove the same and the cost of such removal and the repair of any damage to the demised premises which may be occasioned thereby and any loss or damage which the Landlord may suffer as a result thereof shall be paid by the Tenant to the Landlord on demand as additional rent.

EXECUTIONS BANKRUPTCY

2.2 Upon the happening of any of the following events during the term then, in every such case, the current month's rent, and any arrears of rent together with the rent for the three months next ensuing shall immediately become due and payable and the Lease shall, at the option of the Landlord, forthwith become forfeited and determined, in which event the Landlord may re-enter and take possession of the demised premises as though the Tenant, or any occupant or occupants of the demised premises, was or were holding over after the expiration of the term, provided that no action by the Landlord in so doing shall be deemed to relieve the Tenant of its obligations for the payment of rent and additional rent or any other monies payable hereunder:

- (a) if the term hereby created or any of the goods and chattels of the Tenant shall be at any time seized or taken in execution or in attachment by any creditor of the Tenant or if a writ of execution shall issue against the goods or chattels of the Tenant;

- (b) if the Tenant shall make any assignment for the benefit of creditors or commit any act of bankruptcy pursuant to *The Bankruptcy and Insolvency Act* (Canada), or become a bankrupt or insolvent or take the benefit of any legislation which may be in force for bankrupt or insolvent debtors;
- (c) if the Tenant abandons or attempts to abandon the demised premises;
- (d) if the demised premises are used for any purpose other than as permitted by the terms of this Lease;
- (e) if the Tenant attempts to sell or dispose of its goods or chattels, so that there would not, in the event of such sale or disposal be, in the opinion of the Landlord, a sufficient distress on the demised premises for the then accruing rent hereunder; or
- (f) if a receiving order is made against the Tenant or if a trustee or a receiver, receiver and manager takes or obtains possession or effect control of all or substantially all of the assets of the Tenant or the conduct of the Tenant's business, except pursuant to a Transfer permitted under this Lease.

REMOVAL OF GOODS

2.3 If the Tenant removes its goods and chattels from the premises other than as permitted under this Lease, the Landlord may follow the same for thirty (30) days in the manner provided in the *Landlord and Tenant Act* (Ontario). Notwithstanding anything contained in the *Landlord and Tenant Act* or any other statute or any other subsequent legislation, none of the goods or chattels of the Tenant at any time during the continuance of the term hereby created on the demised premises shall be exempt from levy by distress for rent in arrears, and upon any claim being made for any exemption by the Tenant on a distress made by the Landlord, this covenant may be pleaded as an estoppel against the Tenant in any action brought to test the right to the levying upon any such goods, the Tenant waiving as it hereby does any exemptions from distress which might have accrued to it under the provisions of the *Landlord and Tenant Act*, as the same may be amended or replaced from time to time.

NON-PAYMENT
OF RENT OR
NON-
PERFORMANCE
OF COVENANTS

2.4 If the Tenant shall be in default of any of its covenants hereunder, the Landlord may give to the Tenant notice in writing of the said default with reasonably sufficient particulars and requiring that the said default be remedied, and, in the case of monetary default, if such default is not remedied by the Tenant within seven (7) days after receipt of such notice and, in the case of non-monetary defaults, if the Tenant shall not have commenced to remedy such default within fifteen (15) days after receipt of such notice and proceeded to effect such remedy diligently thereafter, the Landlord may, at its option and in addition to any other right or remedy which the Landlord may have hereunder or at law or in equity, exercise one or more of the following remedies:

- (a) enter into and upon the demised premises or any part thereof in the name of the whole and have again re-possess, and enjoy the same as of its former estate and the said Lease shall thereupon terminate;
- (b) itself take steps and do or cause to be done such things as may be necessary to remedy and correct such defaults at the expense of the Tenant and the Tenant shall forthwith pay to the Landlord all costs and expenses incurred by the Landlord to remedy and correct such defaults upon demand as additional rent;
- (c) re-enter the demised premises as the agent of the Tenant either by force or otherwise, without being liable for any prosecution therefor, and relet the whole or any portion of the demised premises at such rents, upon such other terms, to such persons and for such purposes as the Landlord, acting in a commercially reasonable manner, may deem appropriate and receive the rent therefor; and in connection with any such lease, the Landlord may make such changes, alterations and improvements to the demised premises as the Landlord may determine to be appropriate or helpful in effecting such lease; and apply any rent derived from so reletting the demised premises after deducting all expenses incurred in connection therewith upon account of the rent due hereunder, and the Tenant shall remain liable to the Landlord for the deficiency, if any, it being the intention hereof that nothing herein contained and no entry made by the Landlord hereunder shall in any way release the Tenant from the payment of the rent hereby reserved during the term hereof; and provided that the Landlord shall not in any event be required to pay to the Tenant any surplus of any sums received by the Landlord on a reletting of the demised premises in excess of the rent

reserved hereunder, and this Lease shall continue in full force and effect and rent shall continue to accrue and be payable by the Tenant in accordance with the provisions hereof.

ARTICLE III

LANDLORD'S COVENANTS

QUIET
ENJOYMENT

3.1 The Landlord covenants with the Tenant for quiet enjoyment.

ALTERATIONS
BY TENANT

3.2 The Landlord covenants that the Tenant shall have the right from time to time and when not in default hereunder to make alterations and changes in the interior of the demised premises as it may find necessary for its purposes and at its own expense, provided that plans for such alterations or changes shall be delivered to the Landlord and the consent of the Landlord in writing shall first be obtained, such consent not to be unreasonably or arbitrarily withheld or delayed. Provided that upon the expiration or other termination of this Lease, the Tenant, if requested by the Landlord, shall restore the interior of the demised premises to their former condition immediately prior to the installation of such alterations or changes, including the restoration of such standard fixtures as may have been installed by the Landlord, or alternatively, the installation of comparable fixtures and materials which may then be in use, and if not so requested, any such changes or alterations shall become the property of the Landlord.

AUTHORITY
TO LET

3.3 The Landlord has good right, full power and absolute authority to let the demised premises with their appurtenances according to the true intent of this indenture, and that it will execute such further assurances with respect thereto as may be reasonably required.

STRUCTURAL REPAIRS

3.4 The Landlord shall promptly repair (and effect such replacements as may be necessary in connection therewith) at its own expense, in a good and workmanlike manner:

- (a) defects and deficiencies in the structure of the demised premises, being the floor, structural walls, beams and columns and the roof deck; and
- (b) defects and deficiencies in the demised premises caused by the negligent acts or omissions of the Landlord and its agents, employees, suppliers, contractors and any other person for whom the Landlord is in law responsible.

ARTICLE IV

DAMAGE AND DESTRUCTION

DESTRUCTION

4.1 If and whenever during the term hereby demised, the demised premises shall be destroyed or damaged by fire, lightning, tempest, or by any of the perils insured against under the provisions hereof, then and in every such event:

- (a) if the damage or destruction is such that the demised premises are rendered wholly unfit for occupancy or it is impossible or unsafe to use and occupy them and if, in either event, the damage, in the reasonable opinion of an independent architect or engineer retained by the Landlord, to be given to the Tenant within thirty (30) days of the happening of such damage or destruction, cannot be repaired with reasonable diligence within ninety (90) days from the date the Landlord has given its opinion, then either the Landlord or the Tenant may within five (5) days next succeeding the giving of the Landlord's opinion as aforesaid, terminate this Lease by giving to the other notice in writing of such termination, in which event this Lease and the term hereby demised shall cease and be at an end as of the date of such destruction or damage; in the event that neither the Landlord nor the Tenant so terminate this Lease, then the Landlord shall, subject to paragraph 4.3, repair the demised premises with all reasonable speed and the basic rent hereby reserved (but not additional rent) shall abate from the date of the happening of the damage until the damage shall be made good to the extent of enabling the Tenant to use and occupy the demised premises;

- (b) if the damage is such that the demised premises are wholly unfit for occupancy, or if it is impossible or unsafe to use or occupy them, but if in either event the damage, in the reasonable opinion of an independent architect or engineer retained by the Landlord, to be given to the Tenant within thirty (30) days from the happening of such damage, can be repaired with reasonable diligence within ninety (90) days from the date the Landlord has given its opinion, then the basic rent hereby reserved (but not additional rent) shall abate from the date of the happening of such damage until the damage shall be made good to the extent of enabling the Tenant to use and occupy the demised premises and the Landlord shall, subject to paragraph 4.3, repair the damage with all reasonable speed; and
- (c) if the damage is such that the demised premises are capable of being partially used for the purposes for which they are hereby demised, and if in the reasonable opinion of an independent architect or engineer retained by the Landlord, to be given to the Tenant within thirty (30) days from the happening of such damage, the damage can be repaired within ninety (90) days from the date the Landlord has given its opinion, then until such damage has been repaired basic rent (but not additional rent) shall abate in the proportion that the part of the demised premises which is rendered unfit for occupancy bears to the whole of the demised premises, and the Landlord shall, subject to paragraph 4.3, repair the damage with all reasonable speed.

4.2 The Tenant hereby assigns and makes payable to the Landlord all proceeds of insurance maintained by the Tenant pursuant to paragraph 1.21 hereof and received or receivable by the Tenant in respect of any damage or destruction to all or part of the demised premises. The Tenant further covenants and agrees to perform all acts and execute all instruments as may be required in the circumstances to effect the forgoing assignment and to facilitate the recovery of any insurance monies and to co-operate with the Landlord as may reasonably be required in connection therewith.

4.3 The Landlord's obligation to restore the demised premises pursuant to Section 4.1 shall be limited to the extent of insurance proceeds available for repair and reconstruction and actually received by the Landlord.

ARTICLE V

SIGNS, ETC.

LANDLORD'S
SIGNS

5.1 The Landlord shall have the right at any time during the term hereby demised to place upon the demised premises a notice of reasonable dimensions and reasonably placed so as not to interfere with the Tenant's business, stating that the demised premises are for sale, and at any time during the last three (3) months of the term that the demised premises are to let, and the Tenant shall not remove such notices, or permit the same to be removed.

UNIFORMITY
OF SIGNS

5.2 The Tenant agrees that it will not erect any signs, signboards, posters, flags, advertisements or other decorations in or about the demised premises without the prior consent in writing of the Landlord, which consent shall not be unreasonably withheld or delayed. It is further agreed and understood that any such signs, signboards, posters, flags, advertisements or other decorations to be erected shall be in full compliance with all applicable municipal by-laws.

SIGNAGE
REGULATIONS

5.3 The Landlord expressly reserves the right to regulate all signs, sign boards, posters, flags, advertisements or other decorations and any protrusions from the demised premises for air-conditioning units or for any other reason in its sole and entire discretion in order to maintain a uniformity in appearance of the entire building of which the demised premises form part and to protect the aesthetics thereof for the benefit of its own interests and those of the Tenant and other interested persons.

REMOVAL AND
INDEMNIFICA-
TION

5.4 Any such signs, sign boards, posters, flags, advertisements, decorations, air-conditioning units, etc. shall remain the property of the Tenant and shall be removed by it upon the termination of the term hereby demised, following which the demised premises shall be restored to their original condition. The Tenant shall indemnify the Landlord against any losses, damages, claims, expenses or liabilities suffered by the Landlord as a result of the placing or use of any sign, sign board, poster, flag, advertisement, air-conditioning unit or other thing in or about the demised premises. The foregoing indemnity shall survive the expiration or earlier termination of this Lease. The Tenant shall forthwith pay to the Landlord on demand as additional rent all amounts payable to the Landlord pursuant to the foregoing indemnity.

RULES AND
REGULATIONS

5.5 The Tenant covenants and agrees that it shall comply with the rules and regulations annexed hereto as Schedule "B" concerning the

use and occupancy of the demised premises and all such further rules and regulations and amendments thereto as may be promulgated by the Landlord from time to time, acting reasonably, and of which the Tenant receives a copy.

ARTICLE VI

ENVIRONMENTAL COVENANTS

CONTAMINATION

6.1 The Tenant shall be solely responsible for, and shall indemnify and hold harmless the Landlord from and against any loss, damages, costs, expenses and liability arising out of or from, any contaminant, pollutant or toxic substance (collectively, "Substances") at any time affecting the demised premises or any part thereof resulting from any act or omission to act as a reasonable and prudent person by the Tenant, its agents, employees, suppliers, contractors, invitees or any other person whatsoever on the demised premises or any activity or substance on the demised premises during the term of this Lease and shall be solely responsible for the clean-up and removal of all or any part of the same and any damages caused by the occurrence, clean-up or removal of all or any part of the same and the Tenant shall indemnify and hold harmless the Landlord in respect thereof. The foregoing allocation of responsibility and indemnity shall survive the expiration or earlier termination of this Lease. The Tenant shall forthwith pay to the Landlord on demand as additional rent all amounts claimed by the Landlord pursuant to the foregoing indemnity. For greater certainty, the Tenant shall not be responsible for any Substance affecting the demised premises or part thereof to the extent that such results from any activity or Substance on the demised premises prior to the commencement of the term of this Lease.

COMPLIANCE WITH ENVIRONMENTAL LAWS

6.2 The Tenant shall comply with all applicable federal, provincial, municipal and local environmental, health and safety laws, regulations, orders, directives, guidelines, requests and decrees ("Environmental Laws") in relation to the demised premises and any part thereof and/or the business of the Tenant carried on at, from or in connection with the demised premises and shall be solely responsible to store all of the Tenant's supplies, materials and inventory and to dispose of the Tenant's wastes and effluents, in accordance with all applicable federal, provincial, municipal and local environmental, health and safety laws, regulations, orders, directives, guidelines, requests and decrees and in such a manner that no harm shall result to the Landlord or the Tenant or their respective servants, agents, consumers, employees, contractors or properties or

to any other persons or entities or their properties. However, the Tenant shall not be responsible for any Substance affecting the demised premises or part thereof to the extent that such results from any activity or Substance on the demised premises prior to the commencement of the term of this Lease.

EXISTING SUBSTANCES

6.3 For greater certainty, nothing in this Article VI shall make the Tenant responsible for the clean-up of or liable to the Landlord in respect of any Substance to the extent such Substance was on or about the demised premises as at the commencement of the term of this Lease. In the event that, pursuant to applicable Environmental Laws, any public authority having jurisdiction requires the remediation of any Substance on or about the demised premises, the Landlord and not the Tenant shall be responsible for such remediation to the extent such Substance was on or about the demised premises as at the commencement of the term of this Lease. Except as required by law, neither the Landlord nor the Tenant shall take or initiate any action which could reasonably be expected to result in the requirement for such remediation by any public authority.

ARTICLE VII

INTERPRETATION

GRAMMATICAL CHANGES

7.1 Words importing the singular number only shall include the plural and *vice versa* and words importing the masculine gender shall include the feminine gender and words importing persons shall include individuals, firms, partnerships, trusts, unincorporated associations, governments and corporations.

EXTENT OF PREMISES

7.2 The Landlord and Tenant acknowledge and agree that the demised premises consist of the lands and premises described in Schedule "A" and the whole of the building located thereon.

APPLICABLE LAWS

7.3 This Lease shall be construed under and in accordance with the laws of the Province of Ontario.

MARGINAL NOTES

7.4 The parties hereto agree that the marginal notes in this Lease form no part of this Lease and shall be deemed to have been inserted for convenience of reference only.

ARTICLE VIII

ADDITIONAL TERMS

NON-WAIVER
BY LANDLORD

8.1 No acceptance of rent subsequent to any breach or default hereunder by the Tenant shall be taken to operate as a waiver of such breach or default or affect the rights of the Landlord hereunder. The failure of the Landlord to insist upon the strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed to be a waiver thereof or of any rights or remedies that the Landlord may have and shall not be deemed to be a waiver of any subsequent breach or default in the performance of any of such agreements, terms, covenants and conditions. All rights and powers reserved to the Landlord hereunder may be exercised either by the Landlord or its agents or representatives from time to time and all such rights and powers shall be cumulative and not alternative.

LANDLORD'S
RIGHT TO PAY
TENANT'S
OBLIGATIONS

8.2 If the Tenant fails to pay any taxes, rates, insurance premiums, utilities charges or any other amounts which it has herein covenanted to pay, the Landlord may pay the same and charge the sums paid to the Tenant who shall pay them forthwith on demand and the Landlord, in addition to any other remedies it may have, shall have the same remedies and may take the same steps for the recovery of all such sums as if they were rent in arrears and any monies paid by the Landlord hereunder shall bear interest at the rate of interest charged by the Royal Bank of Canada for Canadian dollar loans made in Canada (the "Prime Rate") plus two (2%) percent per annum calculated *per diem* from the time such amounts are incurred by the Landlord until paid by the Tenant.

PLACE FOR
PAYMENTS

8.3 All payments required to be made by the Tenant shall be made to the Landlord at the Landlord's office as set out herein, or to such agent or agents of the Landlord or at such other place as the Landlord shall hereafter from time to time direct in writing.

ASSIGNMENT
BY LANDLORD

8.4 The Landlord may assign its rights under this Lease to a lending institution as collateral security for a loan. If such assignment is made and executed by the Landlord and notification thereof is given to the Tenant by or on behalf of the Landlord this Lease shall not be cancelled or modified for any reason whatsoever except as provided for by the terms hereof or by law without the consent in writing of such lending institution.

INTEREST

8.5 All arrears of rent shall bear interest at the Prime Rate plus two (2%) percent per annum calculated *per diem* from the date the same became due until paid to the Landlord.

READJUSTMENT AT END OF TERM

8.6 All additional rent due under the terms of this Lease in respect of the first and last months (or any part thereof) of the term hereby demised shall, if necessary, be adjusted between Landlord and Tenant on a *per diem* basis. Taxes, local improvement rates, insurance premiums, public utility charges and other adjustable items in respect of those portions of calendar years if any prior and subsequent to the term hereby demised shall be adjusted between the Landlord and Tenant at the commencement of the term of this Lease and again at the termination of this Lease, to the intent that the burden of any such charges shall be borne by the Landlord until the commencement of this Lease and by the Tenant thereafter until it shall deliver up possession of the demised premises in accordance with the provisions hereof upon the termination of this Lease or of any holding over hereunder

IMPOSSIBILITY OF PERFORMANCE

8.7 It is understood and agreed that whenever and to the extent that the Landlord or Tenant shall be unable to fulfil or shall be delayed or restricted in the fulfilment of any obligation hereunder in respect of the supply or provision of any service or utility or the doing of any work or the making of any repairs by reason of being unable to obtain the material, goods, equipment, service or labour required to enable it to fulfil such obligation, or by reason of any statute, law or order in council, or any regulation or order passed or made pursuant thereto, or by reason of the order or direction of any administrator, comptroller, board, governmental department or officer, or other authority, or by reason of any other cause beyond its control (other than an inability to pay any sum of money), whether of the foregoing character or not, the Landlord or Tenant as the case may be shall be relieved from the fulfilment of such obligation and the Landlord or Tenant as the case may be shall not be entitled to compensation for any inconvenience, nuisance or discomfort thereby occasioned.

NOTICES

8.8 Any notice, request or demand herein provided or permitted to be given by the Tenant to the Landlord shall be sufficiently given if mailed in Metropolitan Toronto, postage prepaid, registered, or delivered to the Landlord addressed to it at:

7955 Torbram Road
Unit 10
Brampton, Ontario
L6T 5B9

and any notice herein provided or permitted to be given by the Landlord to the Tenant shall be sufficiently given if mailed in Metropolitan Toronto, Ontario, postage prepaid, registered or delivered to the Tenant addressed to it at:

4 West Drive
Brampton, Ontario.

Any such notice given as aforesaid shall be conclusively deemed to have been given on the day on which such notice is delivered, or on the third business day following the day upon which such notice is mailed, as the case may be. Either party may at any time give notice in writing to the other of any change of address of the party giving such notice, and from and after the giving of such notice, the address therein specified shall be deemed to be the address of such party for the giving of notices hereunder. The word "notice" in this paragraph shall be deemed to include any request, statement or other writing in this Lease provided or permitted to be given by the Landlord or the Tenant to the other.

OVERHOLDING 8.9 Should the Tenant remain in possession of the demised premises after the expiration of this Lease, without other special agreement, the Tenant shall hold the demised premises as a monthly tenant only at a monthly basic rent equal to the basic rent payable during the last month of the term hereof, times two, payable on the first day of each and every month and subject in all other respects to the terms of this Lease, including those provisions requiring the payment of additional rent in monthly instalments.

NO REPRESENTATIONS 8.10 The Tenant agrees that no representations, warranties or promises with respect to the demised premises have been made by or on behalf of the Landlord except as are herein expressly set forth and this Lease and the schedules attached hereto constitutes the entire agreement between the Landlord and the Tenant with respect to the subject matter hereof.

TIME 8.11 The parties hereto agree that time shall be of the essence of this Lease, save as is herein specifically set out.

NO RESERVATION 8.12 The submission of this Lease for examination does not constitute a reservation of or option for the demised premises and

this Lease becomes effective as a lease only upon execution and delivery thereof by Landlord and Tenant.

SUBORDINATION

8.13 Upon request of Landlord, Tenant will subordinate its rights hereunder to any mortgage or mortgages, or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the demised premises and to all advances made or hereafter to be made upon the security thereof. No subordination by Tenant shall have the effect of permitting the holder of any mortgage or lien, or other security to disturb the occupation and possession by Tenant of the demised premises, so long as Tenant shall perform all of the terms, covenants and conditions and provisos in this Lease and the holder of such mortgage or lien shall provide the Tenant with a written agreement to this effect prior to the Tenant being required to subordinate as aforesaid.

AMENDMENTS

8.14 This Lease may not be modified except by a written agreement duly executed by the Landlord and the Tenant.

ESTOPPEL CERTIFICATES

8.15 Each of the Landlord and the Tenant shall execute and deliver to the other from time to time upon request a statement in writing certifying that:

- (a) this Lease is in full force and effect unmodified (or if modified specifying such modifications);
- (b) the dates to which rent and other charges under this Lease have been paid;
- (c) it has no claims, charges, defences, rights of set-off, abatement, lien or counterclaim against the other in respect of rent or otherwise; and
- (d) the Tenant and the Landlord have complied with their respective obligations under the Lease and to its' knowledge there are no circumstances which with the passage of time or the giving of notice or both would constitute a default under the Lease.

If within ten (10) days after a request from the Landlord to execute such statement the Tenant has not executed the same, the Tenant irrevocably appoints the Landlord as the Tenant's attorney with full power and authority to execute and deliver in the name of the Tenant any such statement.

REGISTRATION 8.16 Neither the Tenant nor anyone on the Tenant's behalf shall register this Lease or any other instrument pertaining hereto on title to the demised premises without the prior written consent of the Landlord; provided that the Tenant shall be entitled to register a notice of this Lease which identifies the demised premises, the parties hereto, the term and the Tenant's renewal rights, such notice to be in a form acceptable to the Landlord, acting reasonably.

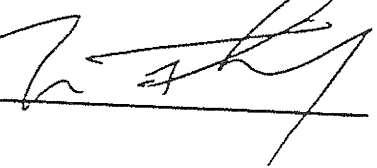
GST 8.17 The Tenant shall pay to the Landlord all sales taxes, value-added taxes, goods and services taxes and any other indirect taxes of any kind whatsoever exigible in respect of rent payable by the Tenant to the Landlord hereunder.

SEVERABILITY 8.18 If one or more of the provisions of this Lease shall be invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality or enforceability of the remaining provisions hereof shall not be affected or impaired thereby. Each of the provisions of this Lease, as the same may be hereafter amended from time to time, is hereby declared to be severable and separately valid and enforceable to the fullest extent permitted by law.

BINDING ON HEIRS THIS LEASE and everything herein contained shall extend to and bind and enure to the benefit of the Landlord and its successors and assigns and the Tenant and its successors and permitted assigns.

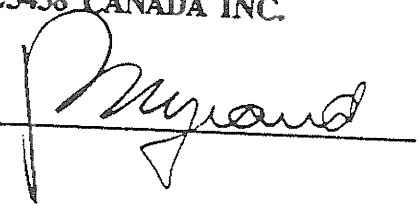
IN WITNESS WHEREOF the parties hereby have executed this Lease.

631400 ONTARIO LIMITED

by 
 M/T

C.S.

3025438 CANADA INC.

by 

C.S.

SCHEDULE "A"

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Brampton, in the Regional Municipality of Peel (formerly in the Township of Chinguacousy, in the County of Peel), in the Province of Ontario containing by admeasurement an area of 5.993 acres, be the same more or less, being composed of Part of Block A, according to a plan registered in the Registry Office for the Registry Division of Peel as No. 676, the boundaries of the said land being described as follows:

PREMISING that the southwesterly limit of the said Block A has an astronomic bearing of North 44 degrees, 18 minutes West as shown on the said Registered Plan No. 676 and relating all bearings herein thereto;

COMMENCING at a point in the interior of the said Block A which said point may be located as follows:

BEGINNING at the southerly corner of the said Block A;

THENCE North 65 degrees, 14 minutes, 20 seconds West, 511.04 feet to a point in the said southwesterly limit of Block A;

THENCE North 44 degrees, 18 minutes West along the said southwest limit of Block A. 595.82 feet to a point therein;

THENCE North 00 degrees, 43 minutes, 30 seconds East, 70.68 feet to a point in the southeasterly limit of Finley Drive dedicated as a public highway by By-law No. 40-69 of the former Township of Chinguacousy registered in the said Registry Office as Instrument No. 117253 VS;

THENCE North 45 degrees, 45 minutes East continuing along the said southeasterly limit of Finley Drive, 1,622.28 feet to a point therein being the point of commencement;

THENCE North 45 degrees, 45 minutes East along the said southeasterly limit of Finley Drive, 555.80 feet to a point therein;

THENCE South 89 degrees, 15 minutes East, 35.36 feet to a point in the southwesterly limit of Glidden Road dedicated as a public highway by By-law No. 125-69 of the former Township of Chinguacousy registered in the said Registry Office as Instrument No. 124345 VS;

THENCE South 44 degrees, 15 minutes East along the said southwesterly limit of Glidden Road, 425.00 feet to a point therein;

THENCE South 45 degrees, 45 minutes West, 580.80 feet;

THENCE North 44 degrees, 15 minutes West, 450.00 feet more or less to the point of commencement;

SCHEDULE "B"

RULES AND REGULATIONS

1. The Tenant shall not permit any cooking in the demised premises without the written consent of the Landlord.
2. The sidewalks, entries, passages, elevators and staircases of the demised premises shall not be obstructed or used by the Tenant, its agents, servants, contractors, invitees or employees for any purpose other than ingress to and egress from the demised premises.
3. The Tenant, its agents, servants, contractors, invitees and employees shall not bring in or take out, position, construct, install or move to, from, in, on or about the demised premises any safe, machinery or other heavy equipment without first obtaining the consent in writing of the Landlord. In giving such consent, the Landlord shall have the right in its sole discretion, to prescribe the weight permitted and the position thereof, and the use and design of planks, skids or platforms to distribute the weight thereof. All damage done to the office by moving or using any heavy machinery, equipment or other equipment or furniture shall be repaired by the Tenant at its own expense. The moving of all heavy machinery, equipment or other equipment or furniture shall be carried out only between 6:00 a.m. and 8:00 a.m. and at no other time unless consented to by the Landlord, and the persons employed to move such equipment or furniture in and out of the premises must be acceptable to the Landlord. Safes and other heavy machinery and equipment will be moved through the halls and corridors only upon steel bearing plates. No freight or bulky matter of any description shall be received into the premises or carried in the elevators, except during the hours approved by the Landlord.
4. The Tenant shall not place or cause to be placed any additional locks upon any doors of the demised premises without the approval of the Landlord and subject to any conditions imposed by the Landlord. Additional keys may be obtained from the Landlord at the cost of the Tenant. The Landlord has the right to remove at the Tenant's cost without any prior notice to the Tenant, any additional locks which the Tenant may place on the doors to the demised premises and such removal shall not constitute a breach of the lease or a re-taking of possession of the demised premises by the Landlord.
5. The water closets and other water apparatus in the demised premises shall not be used for any purpose other than those for which they were constructed, and no sweeping, rubbish, rags, ashes or other substances shall be thrown therein. Any damage resulting from misuse shall be borne by the Tenant. The Tenant shall not let the water run unless it is in actual use.
6. The Tenant shall not deface or mark any part of the demised premises, or drive nails, spikes, hooks or screws into the walls or woodwork thereof.

7. No one shall use the demised premises for sleeping apartments or residential purposes, or for the storage of personal effects or articles not required for business purposes in connection with the Tenant's permitted use of the premises.
8. The Tenant shall permit window cleaners to clean the windows of the premises during normal business hours.
9. Canvassing, soliciting and peddling in the premises are prohibited.
10. Any hand trucks, carryalls or similar appliances used in the premises shall be equipped with rubber tires, side guards and such other safeguards as the Landlord shall require.
11. No animals or birds shall be kept or brought into the premises.
12. The Tenant shall not install or use or permit the installation or use of any machine dispensing goods for sale in the premises or permit the delivery of any food or beverage to the premises without the approval of the Landlord or in contravention of any regulations promulgated by the Landlord. Only persons authorized by the Landlord shall be permitted to deliver to or to use the elevators in the office for the purpose of delivering food or beverages to the premises.



4 WEST DRIVE, BRAMPTON, ONTARIO L6T 2H7
 TEL: (905) 453-8054 FAX: (905) 453-6348

October 15th, 2000

631400 Ontario Limited,
 1454 Dundas Street East, Suite # 117,
 Mississauga, Ontario.
 L4X 1L4

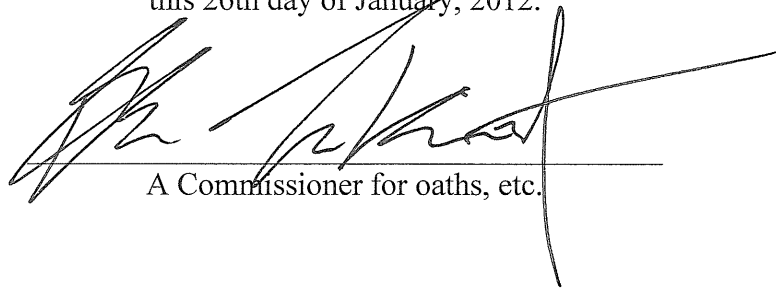
As provided in the Lease dated April 01st, 1994, on page 2, under the heading Renewal, paragraph (a), Valle Foam Industries (1995) Inc. is hereby advising its intention to renew the first option of the Lease for 4 West Drive for a five year term.

A handwritten signature in cursive script, appearing to read "A. Valle", is written over a horizontal line.

Valle Foam Industries (1995) Inc.



This is Exhibit "B" to the affidavit of Mark Turkienicz
sworn before me
this 26th day of January, 2012.



A Commissioner for oaths, etc.

631400 Ontario Limited
(hereinafter referred to as the "Landlord")
OF THE FIRST PART

-and-

Valle Foam Industries (1995) Inc
(hereinafter referred to as the "Tenant")
OF THE SECOND PART

WHEREAS the Landlord and Tenant entered into a lease dated April 1, 1994 for the premises municipally known as 4 West Drive, in the city of Brampton, Ontario (hereinafter referred to as "the lease") consisting of 147,544 square feet;

NOW THEREFORE this agreement witnesseth that in consideration of the sum of Two Dollars (\$2.00) now paid by each of the parties hereto, the parties hereby agrees as follows:

That the lease be amended in accordance to the following terms:

1. 3025438 Canada Inc. has amalgamated with Other Corporations to continue under the name Valle Foam Industries (1995) Inc.
2. That the paragraph entitled "TERM" be deleted and the following to be inserted in it's stead:

"To hold the premises for the term of five (5) years from the 1st of May, 2001 until the 30th day of April, 2006 together with the option to renew hereinafter provided, unless such term shall be sooner terminated as hereinafter provided. For the purposes of this lease "term" means the term granted hereby and any renewal term arising upon the Tenant's exercise of the option to renew hereinafter provided. "

3. That the paragraph entitled "RENTAL" be amended to remove "\$553,290.00" and insert "\$627,062.00"; to remove "\$46,107.50" and insert "\$52,255.17"; and to remove "1st day of April, 1994" and to insert "1st day of May, 2001."

4. That the paragraph entitled "RENEWAL" be amended to delete "two (2) periods of five (5) years" and to insert "one (1) period of five (5) years"

All other terms and conditions of the Lease to remain in full effect.

Attached hereto as "Schedule A" is a copy of the lease.

IN WITNESS WHEREOF the parties have executed this agreement this 31ST day of JAN 2006

631400 Ontario Limited

per: 

Valle Foam Industries (1995) Inc

(hereinafter referred to as the "Landlord")

OF THE FIRST PART

-and-

Valle Foam Industries (1995) Inc

(hereinafter referred to as the "Tenant")

OF THE SECOND PART

WHEREAS the Landlord and Tenant entered into lease dated April 1, 1994 and Agreement Amending Terms of Lease dated January 31, 2001 and Agreement Amending Terms of Lease dated April 28, 2006 for the premises municipally known as 4 West Drive, in the city of Brampton, Ontario (hereinafter referred to as "the lease") consisting of 147,544 square feet;

NOW THEREFORE this agreement witnesseth that in consideration of the sum of Two Dollars (\$2.00) now paid by each of the parties hereto, the parties hereby agree as follows:

That the lease be amended in accordance to the following terms:

1. 3025438 Canada Inc. has amalgamated with Other Corporations to continue under the name Valle Foam Industries (1995) Inc.

2. That the paragraph entitled "TERM" be deleted and the following be inserted in its stead:

"To hold the premises for the term of five (5) years from the 1st day of May, 2011, until the 30th day of April, 2016 together with the option to renew hereinafter provided, unless such term shall be sooner terminated as hereinafter provided. For the purposes of this lease "term" means the term granted hereby and any renewal term arising upon the Tenant's exercise of the option to renew hereinafter provided."

3. That the paragraph entitled "RENTAL" be amended to removed ~~\$627,062.00~~ and inserted "\$663,948.00"; to removed ~~\$52,255.17~~ and inserted \$55,329.00"; and removed "1st day of May, 2001" and insert "1st day of May, 2011."
 553,290.00

4. There is no further RENEWAL option of exercise.

All other terms and conditions of the Lease to remain in full effect.

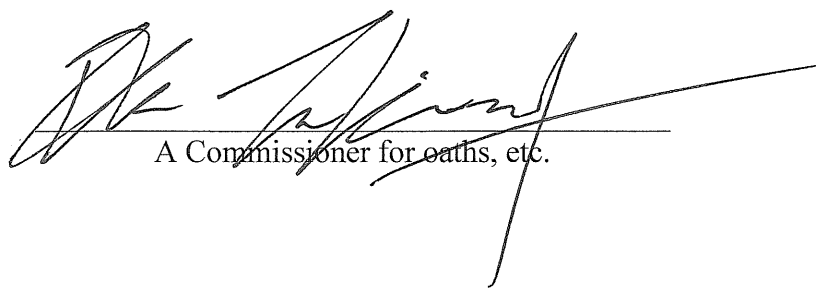
Attached hereto as "Schedule A" is a copy of the lease and "Schedule B" is a copy of the agreements amending terms of lease.

IN WITNESS WHEREOF the parties have executed this agreement this 28 day of April 2011.

631400 Ontario Limited
Per: [Signature]

Valle Foam Industries (1995) Inc.

This is Exhibit "C" to the affidavit of Mark Turkienicz
sworn before me
this 26th day of January, 2012.



A Commissioner for oaths, etc.

ED MORGAN
Professional Corporation

January 11, 2012

DELIVERED

Mr. Robert Tanner
Tanner & Guiney
Barristers and Solicitors
130 Adelaide Street West, Suite 3425
P.O.Box 34
Toronto, Ontario
M5H 3P5

Dear Mr. Tanner:

Re: Lease from 631400 Ontario Limited to Valle Foam Industries (1995) Inc.

We represent Milton Turk & Sons Ltd., a 33.3% shareholder of 631400 Ontario Limited (“631400”), the owner and landlord of the premises leased by Valle Foam Industries (1995) Inc. (“Valle Foam”), and Eli Turkienicz, a director and officer of 631400.

Our clients have been referred to you by Tony Vallecoccia, who has advised that you represent Valle Foam. If this is not correct please let me know at once so that I can deal with Valle Foam directly.

As of this date, 631400 has not received rent, common expenses, and HST for the months of December 2011 and January 2012, in the amount of \$125,043.54.

According to clause 2.4 of the above mentioned lease, “[i]f the Tenant shall be in default of any of its covenants hereunder, the Landlord may give the Tenant notice in writing of the said default with reasonably sufficient particulars and requiring that the said default be remedied, and, in the case of monetary default, if such default is not remedied by the Tenant within seven (7) days after receipt of such notice... the Landlord may, at its option and in addition to any other right or remedy which the Landlord may have hereunder or at law or in equity, exercise one or more of the following remedies:

- (a) enter into and upon the demised premises and any part thereof in the name of the whole and have again re-possess and enjoy the same as of its former estate and the said Lease shall thereupon terminate;

Ed Morgan
Professional Corporation

(b) itself take steps and do or cause to be done such things as may be necessary to remedy and correct such defaults at the expense of the Tenant and the Tenant shall forthwith pay to the Landlord all costs and expenses incurred by the Landlord to remedy and correct such defaults upon demand as additional rent;

(c) re-enter the premises as the agent of the Tenant either by force or otherwise, without being liable for any prosecutions therefor, and relet the whole or any portion of the demised premises at such rents, upon such other terms, to such persons and for such purposes as the Landlord, acting in a commercially reasonable manner, may deem appropriate and receive the rent therefore, and in connection with any such lease the Landlord may make such changes, alterations, and improvements to the demised premises as the Landlord may determine to be appropriate or helpful in effecting such lease; and may apply rent derived from so reletting the demised premises after deducting all expenses incurred in connection therewith upon account of the rent due hereunder, and the Tenant shall remain liable to the Landlord for the deficiency, if any, it being the intention hereof that nothing herein contained and no entry made by the Landlord hereunder shall in any way release the Tenant from the payment of the rent hereby reserved during the term hereof; and provided that the Landlord shall not in any event be required to pay to the Tenant any surplus of any sums received by the Landlord on a reletting of the demised premises in excess of the rent reserved hereunder, and this Lease shall continue in full force and effect and rent shall continue to accrue and be payable by the Tenant in accordance with the provisions hereof.”

If 631400 does not receive payment in full by Wednesday, January 18, 2012, it may as Landlord exercise its rights under the above mentioned lease.

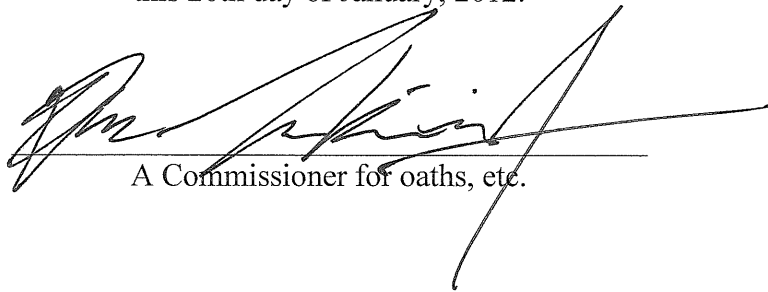
Please advise me as to any steps your client intends to take.

Yours very truly,

Ed Morgan

EM/ms

This is Exhibit "D" to the affidavit of Mark Turkienicz
sworn before me
this 26th day of January, 2012.



A Commissioner for oaths, etc.

LIMITED SOILS
INVESTIGATION PROGRAM
4 WEST DRIVE,
BRAMPTON, ONTARIO



60 Centurian Dr., Suite 220, Markham, Ontario L3R 8T5
Affiliated Offices in the U.S.

March 25, 1997

Project #277/004

LIMITED SOILS
INVESTIGATION PROGRAM
4 WEST DRIVE,
BRAMPTON, ONTARIO

Prepared For:
VALLE FOAM INDUSTRIES



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ENVIRONMENTAL CANADA

March 25, 1997

Project #277/004

Valle Foam Industries Inc.
4 West Drive
Brampton, Ontario
L6T 2H7

Attention: Mr. Tony Vallecoccia

Re: Limited Soils Investigation Program
4 West Drive, Brampton, Ontario

Dear Mr. Vallecoccia:

1.0 INTRODUCTION

Valle Foam Industries Inc. retained Briggs Environmental Canada Limited (Briggs) to conduct a Limited Soils Investigation at their facility located at 4 West Drive in Brampton, Ontario (Figure 1). It was understood that the work program was required to evaluate the potential for impacts to the subsurface as a result of historical usage of the property.

1.1 **Background**

Prior to undertaking the Limited Soils Investigation program, Briggs reviewed a Phase 1 Environmental Site Assessment report prepared by Sentar Consultants Inc. and a Peer Review report prepared by Briggs to gather information on areas of potential environmental concern. In brief, previous studies identified chemical filling areas, chemical storage areas, and reclaimed pits as areas of potential environmental concern.

Briggs proceeded with the work plan outlined in our proposal P534/97 as per your written authorization. Field work commenced on March 7, 1997 and was substantially completed on March 10, 1997.

60 Centurian Dr., Suite 220, Markham, Ontario L3R 8T5
Tel. (905) 479-1277 Fax. (905) 479-1279



A Member of The Briggs Group

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2.0 LIMITED SOILS INVESTIGATION

Briggs undertook a Limited Soils Investigation at the subject property to confirm or deny the presence of subsurface impacts to the site.

2.1 Drill Program

2.1.1 General

A total of nine (9) boreholes were advanced on-site to define the subsurface stratigraphy and to assess the condition of the soils beneath the subject site. The investigation consisted of two drill programs, an exterior drill program and an interior drill program. Mr. Chris Cooley of Briggs conducted the field program at the subject property.

2.1.2 Exterior Drill Program

Five (5) boreholes were advanced to depths up to 3.3 m using a truck-mounted CME-55 drill rig with conventional hollow stem augers. All boreholes were positioned at areas of potential environmental concern identified during the previous environmental studies. The exterior boreholes are designated as BH1 to BH5 on Figure 1. Borehole logs describing soil conditions are presented in Appendix A.

Soil samples were collected using a 50 mm diameter, 0.76 m split spoon sampling device. The split spoon sampler was washed with phosphate free detergent and water, sprayed with methanol, then rinsed with water between samples to limit the potential for cross-contamination.

Representative soil samples were stored in sealable plastic sample bags and laboratory grade sample jars. The samples stored in the sample bags were later analyzed for physical composition, visual and/or olfactory evidence of contamination using an HNU photoionization detector (PID).

Upon completion, all boreholes were backfilled with drill cuttings and sealed with bentonite at base and at grade. Excess drill cuttings were contained and stored on-site in one 205 L steel drum pending disposal.

2.1.2 Interior Drill Program

Four (4) boreholes were advanced to depths up to 1.8 m using a man portable Pionjar drill rig. All boreholes were positioned at areas of potential environmental concern identified during the previous environmental studies. The interior boreholes are designated as P1 to P4 on Figure 1. Borehole logs describing soil conditions are presented in Appendix A.

The Pionjar drill advances a 50 mm diameter, 0.76 m split spoon sampling device and returns a relatively undisturbed, continuous soil sample to surface. The split spoon sampler was washed with phosphate free detergent and water, sprayed with methanol, and rinsed with water between samples to limit the potential for cross-contamination.

2.2 Laboratory Analytical Program

Those soil samples requiring analytical testing were carefully transferred by Briggs to the appropriate sample bottles with minimum agitation and preserved as appropriate for testing. All samples were transported to an approved laboratory with a chain of custody to ensure the integrity of the sample delivery process.

The following analyses were undertaken on selected soil samples:

- 4 samples for inorganic compounds including metals and pH,
- 7 samples for volatile organic compounds (VOCs) including benzene, toluene, ethylbenzene and xylenes (BTEX) parameters.

Laboratory certificates of analysis are provided in Appendix B.

3.0 RESULTS

3.1 Site Geology

The results of the drilling program indicate that most of the site is covered by a uniform layer of sand and gravel fill to a depth of 0.3 m. Underlying the fill material is a native clayey silt till that is continuous across the site. The till can be described as medium to fine textured and mottled brown in colour. Weathered shale was encountered at a depth of approximately 3.0 m in all drilled boreholes.

3.2 Soil Quality - Field Screening Results

Headspace vapour readings were taken on recovered soil samples using an HNU photoionization detector (PID). The HNU is a portable instrument used to detect, measure and provide a direct reading of the concentration of a variety of trace vapours in many plant and industrial environments. The PID was equipped with a 10.2 eV ultraviolet light and was calibrated to provide a direct reading for benzene. The PID was calibrated prior to field screening and after sampling.

3.2.1 Exterior Drilling Program

Headspace vapour concentrations in the recovered soil samples ranged from not detect (<1 ppm) to 25 ppm. No visual evidence of hydrocarbon contamination was observed in the samples.

3.2.2 Interior Drilling Program

Headspace vapour concentrations in the recovered soil samples ranged from not detect (0 ppm) to 150 ppm. Olfactory evidence of hydrocarbon contamination was detected in one sample recovered from borehole P2. It should be noted that headspace vapour readings may have been elevated as a result of moisture affecting the sensitivity of the PID.

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3.3 Soil Quality

The results of the laboratory analyses were compared to the Ontario Ministry of Environment and Energy (MOEE) publication, *Guideline for Use at Contaminated Sites in Ontario, June 1996, as amended (MOEE Guideline)*. Briggs compared test results with the Table B criteria of the guideline for an industrial/commercial landuse. The rationale for this selection is presented in Appendix C.

3.3.1 Inorganic Compounds

A total of four representative soil samples were submitted to Barringer Laboratories for inorganic testing based on the parameters listed in the *MOEE Guideline*. The results of the testing indicated that the soils met the Table B criteria. Test results are presented in Table 1.

Table 1
Inorganic Compounds
(ppm)

| Parameter | Table B Criteria ppm | BH2 SA1 | BH5 SA1 | P1 SA1 | P3 SA1 |
|--------------|----------------------|---------|---------|--------|--------|
| Soil Texture | | Coarse | Fine | Coarse | Coarse |
| pH | 5-9 | 7.83 | 7.81 | 7.66 | 7.92 |
| EC | 1.4 | 0.613 | 0.276 | 0.362 | 0.353 |
| SAR | 12 | 1.12 | 0.39 | 0.54 | 0.43 |
| Arsenic | 40 (50) | 2.1 | 2.1 | 2.5 | 4.1 |
| Cadmium | 12 | <0.3 | <0.3 | <0.3 | <0.3 |
| Chromium VI | 8 (10) | <1 | <1 | <1 | <1 |
| Chromium | 750 (1,000) | 14.7 | 12.0 | 18.8 | 21.1 |
| Cobalt | 80 (100) | 8 | 6 | 9 | 12 |
| Copper | 225 (300) | 23.4 | 13.2 | 25.1 | 31.9 |
| Lead | 1000 | 10 | 5 | 2 | <2 |
| Mercury | 10 | 0.020 | 0.020 | 0.02 | 0.03 |
| Molybdenum | 40 | <3 | <3 | <3 | <3 |
| Nickel | 150 (200) | 18 | 14 | 18 | 26 |
| Selenium | 10 | <0.2 | <0.02 | <0.2 | <0.2 |
| Silver | 40 (50) | <0.3 | <0.3 | <0.3 | <0.3 |
| Zinc | 600 (800) | 49.2 | 63.3 | 46.2 | 62.5 |
| Antimony | 40 (44) | <0.2 | <0.2 | <0.2 | <0.2 |
| Barium | 1,500 (2,000) | 79.7 | 52.4 | 79.2 | 84.5 |
| Beryllium | 1.2 | 0.45 | 0.40 | 0.56 | 0.76 |
| Vanadium | 200 (250) | 17.5 | 14.4 | 26.8 | 27.7 |
| Free Cyanide | 100 | <0.02 | 0.02 | <0.02 | <0.02 |
| Heavy Oils | 5,000 | <100 | <100 | <100 | <100 |

Criteria - *Guideline for Use at Contaminated Sites in Ontario, June 1996 as amended*. Coarse Soil Criteria, () Fine Grained Criteria.

Bold/Shaded - Exceeds criteria, N/A - Not Analyzed

3.3.2 Volatile Organic Compounds (VOC)

A total of seven representative soil samples were submitted to Barringer Laboratories for VOC testing based on the parameters listed in the *MOEE Guideline*. The results of the testing indicated that with the exception of an elevated 1,1-Dichloroethene level (0.5ppm) in one sample tested (BH4), the soils met the Table B criteria. Test results are presented in Table 2.

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Table 2
VOC Compounds
(ppm)

| Parameter | Table B Criteria (ppm) | BH1 SA2 | BH3 SA3 | BH4 SA1 | P1 SA2 | P2 SA1 | P2 SA3 | P4 SA1 |
|---------------------------|------------------------|---------|---------|---------|--------|--------|--------|--------|
| Soil Grain Size | | Fine | Fine | Fine | Fine | Coarse | Fine | Coarse |
| Chloromethane | - | <0.005 | <0.005 | <1 | <0.005 | <0.005 | <0.005 | <0.005 |
| Vinyl Chloride | 0.003 (0.0075) | <0.003 | <0.003 | <1 | <0.003 | <0.003 | <0.003 | <0.003 |
| Bromomethane | 0.061 (0.38) | <0.005 | <0.005 | <1 | <0.005 | <0.005 | <0.005 | <0.005 |
| Chloroethane | - | <0.005 | 0.009 | <1 | <0.005 | <0.005 | <0.005 | <0.005 |
| Trichlorofluoromethane | - | <0.005 | 0.019 | <0.2 | <0.005 | <0.005 | <0.005 | <0.005 |
| Acetone | 3.8 | 0.089 | <0.05 | <10 | <0.05 | <0.05 | <0.05 | <0.05 |
| 1,1-Dichloroethane | 0.0024 (0.015) | <0.002 | <0.002 | 0.5 | <0.002 | <0.002 | <0.002 | <0.002 |
| Dichloromethane | - | <0.010 | 0.012 | <0.5 | <0.010 | <0.010 | <0.010 | 0.075 |
| trans-1,2-Dichloroethene | 4.1 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,1-Dichloroethane | 0.022 (0.14) | <0.002 | 0.004 | <0.1 | 0.016 | 0.002 | <0.002 | <0.002 |
| Methyl Ethyl Ketone | 38 | <0.025 | <0.025 | <5 | <0.025 | <0.025 | <0.025 | <0.025 |
| cis-1,2-Dichloroethene | 2.3 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Chloroform | 0.79 (4.9) | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,1,1-Trichloroethane | 26 (34) | <0.002 | 0.004 | 5.6 | <0.002 | <0.002 | <0.002 | <0.002 |
| Carbon Tetrachloride | 0.1 (0.64) | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,2-Dichloroethane | 0.022 (0.14) | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Benzene | 5.3 (25) | <0.002 | <0.002 | <0.05 | <0.002 | <0.002 | <0.002 | 0.008 |
| 1,2-Dichloropropane | 0.019 (0.12) | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Trichloroethene | 1.1(3.9) | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Bromodichloromethane | 25 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| cis-1,3-Dichloropropene | - | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Methyl Isobutyl Ketone | 58 (69) | <0.025 | <0.025 | <5 | <0.025 | <0.025 | <0.025 | <0.025 |
| trans-1,3-dichloropropene | - | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,1,2-Trichloroethane | 3.1 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Toluene | 34 (150) | 0.006 | 0.007 | <0.1 | <0.002 | 0.003 | <0.002 | 0.033 |
| 2-Hexanone | - | <0.025 | <0.025 | <5 | <0.025 | <0.025 | <0.025 | <0.025 |
| Dibromochloromethane | 18 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,2-Dibromoethane | - | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Tetrachloroethene | 0.45 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Chlorobenzene | 8 (30) | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Ethylbenzene | 290 (1,000) | 0.006 | 0.007 | <0.1 | <0.002 | <0.002 | <0.002 | 0.013 |
| Bromoform | 2.3 (14) | <0.002 | <0.002 | <0.2 | <0.002 | <0.002 | <0.002 | <0.002 |
| Styrene | 1.2 (7.7) | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,1,2,2-Tetrachloroethane | 0.037 (0.23) | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,3-Dichlorobenzene | 30 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,4-Dichlorobenzene | 30 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| 1,2-Dichlorobenzene | 30 | <0.002 | <0.002 | <0.1 | <0.002 | <0.002 | <0.002 | <0.002 |
| Xylenes | 34 (210) | 0.063 | 0.063 | <0.2 | <0.004 | <0.004 | <0.004 | 0.109 |

Criteria - Guideline for Use at Contaminated Sites in Ontario, June 1996 as amended. Coarse Soil Criteria, () Fine Grained Criteria.

Bold/Shaded - Exceeds Criteria, N/A - Not Analyzed

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4.0 CONCLUSIONS & RECOMMENDATIONS

Briggs makes the following conclusions and recommendations based on the work program undertaken and the results of the laboratory analytical program.

In all instances, recovered soil samples submitted to the laboratory for chemical analysis and testing were compared to the Table B criteria of the MOEE *Guideline for Use at Contaminated Sites in Ontario, June 1996 as amended*, for an industrial/commercial landuse. When site conditions meet the criteria established in Table B, assurances are provided that no adverse effects or likelihood of adverse effects would occur to potential receptors.

4.1

A total of four representative soil samples were submitted to Barringer Laboratories for inorganic testing based on the parameters listed in the *MOEE Guideline*. The results of the testing indicated that the soils met the Table B criteria.

4.2

A total of seven representative soil samples were submitted to Barringer Laboratories for volatile organic compound testing based on the parameters listed in the *MOEE Guideline*. The results of the testing indicated that with the exception of an elevated 1,1-Dichloroethene level (0.5ppm) in one sample tested (BH4), the soils met the Table B criteria.

Recommendations

Based on the industrial setting of the property with no change in landuse anticipated, Briggs does not consider that remediation would be required based on the sole soil exceedance. Although unconfirmed, it is likely the low permeability subsoil encountered on-site would restrict contaminant migration (i.e. 1,1-Dichloroethene). When manufacturing activities cease to operate, Briggs recommends that additional sampling and testing be undertaken to determine the source location (if possible) of the elevated 1,1-Dichloroethene. As this compound is strictly regulated by regulatory officials (since it could potentially breakdown into vinyl chloride) the need for remediation would require re-evaluation should elevated levels persist elsewhere on-site.

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5.0 CLOSURE

The intrusive site assessment by Briggs Environmental Canada Limited (Briggs) was conducted following industry standard scientific and engineering judgment, principles and practices. The resulting opinions expressed by Briggs are based on observations and findings recorded by Briggs during the course of site surveys and investigations.

Subsurface conditions described in this report are those observed by Briggs personnel at the time of the study. Borehole visual and/or chemical observations indicate the approximate subsurface conditions (subject to sampling variances) at the locations of specific boreholes. In practice, boundaries between zones are often not distinct, but rather transitional and are therefore interpretive. As such, subsurface conditions between boreholes are inferred and may vary significantly from the conditions encountered at specific locations.

Briggs cannot guarantee the accuracy and reliability of the information provided by others during interviews with personnel that were deemed to be knowledgeable about site conditions. Furthermore, Briggs does not claim responsibility for environmental concerns undisclosed by others that may result in costs for environmental clean-up or remediation. A copy of our standard Terms and Conditions of Retainer is appended to our report, and applies to all work performed.

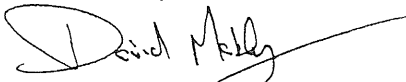
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If you have any questions or concerns, please do not hesitate to contact the undersigned.

Yours truly,
BRIGGS ENVIRONMENTAL CANADA LIMITED
Member of the Briggs Group



Chris Cooley
Environmental Technologist



David Mably, P.Eng.
Environmental Engineer

IN THE MATTER OF THE CCAA AND IN THE MATTER OF
A PLAN OF COMPROMISE OR ARRANGEMENT OF
VALLE FOAM et al.

Court File No. CV-12-9545-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

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