UNDERWRITING AGREEMENT

May 25, 2001

Toromont Industries Ltd.
3131 Highway 7 West
Concord, ON
L4K lB7

Attention: Robert M. Ogilvie
Chairman and Chief Executive Officer

Dear Sirs/Madames:

The undersigned, TD Securities Inc. ("TDSI"), CIBC World Markets Inc., Raymond James Ltd. and Canaccord Capital Corporation (collectively, the "**Underwriters**" and each individually, an "**Underwriter**") understand that Toromont Industries Ltd. (the "**Corporation**") proposes to issue and sell to the Underwriters 2,500,000 common shares of the Corporation (the "**Purchased Shares**"). The Purchased Shares shall have the material attributes described in and contemplated by the Final Prospectus (as defined hereunder).

This offer is conditional, among other things, upon the Corporation filing and obtaining receipts for the Preliminary Prospectus (as defined hereunder) and the Final Prospectus in respect of the Purchased Shares and the Additional Shares (as defined hereunder) from the securities regulatory authorities in each of the Qualifying Provinces (as defined hereunder), pursuant to National Instrument 44-101 established by the securities regulatory authorities in Canada (the "**Short Form System**") qualifying the distribution of the Purchased Shares and the Additional Shares.

The Corporation hereby grants to the Underwriters (in accordance with the percentages set forth in paragraph 16 hereof) an option (the "**Size Option**") to purchase severally and not jointly and offer for sale to the public pursuant hereto up to 500,000 additional common shares of the Corporation (the "**Additional Shares**") upon the terms and conditions set forth herein. The Size Option shall be exercisable, in whole or in part, by the Underwriters giving notice to the Corporation not later than 5:00 p.m. (Toronto time) on the second Business Day prior to the Closing (as defined hereunder) of this offering (the "**Size Option Expiry Time**"), specifying the number of Additional Shares to be purchased. Pursuant to such notice, the Underwriters shall purchase and the Corporation shall issue and sell the number of Additional Shares indicated in such notice, in accordance with the provisions of subparagraph 9(c) hereof. The Additional Shares shall have attributes identical to the Purchased Shares.

The Underwriters propose to distribute the Purchased Shares and the Additional Shares in Canada pursuant to the Final Prospectus and in the United States through certain appropriately registered U.S. broker-dealer affiliates of the Underwriters pursuant to Rule 144A (as defined below), all in the manner contemplated by this Agreement.

DEFINITIONS

In this Agreement,

"1933 Act" means the United States *Securities Act of 1933*, as amended;

"affiliate", **"associate"** and **"subsidiary"** have the respective meanings given to them in the *Securities Act* (Ontario) and **"material change", "material fact"** and **"misrepresentation"** have the respective meanings given to them under Canadian Securities Laws;

"Agreement" means the agreement resulting from the acceptance by the Corporation of the offer made by the Underwriters by this letter;

"Business Day" means a day which is not a Saturday, a Sunday or a statutory or civic holiday in Toronto, Canada;

"Canadian Securities Laws" means, collectively, all applicable securities laws in each of the Qualifying Provinces and the respective regulations and rules under such laws together with applicable published policy statements, notices and orders issued by the Securities Commissions thereunder;

"Closing" means the completion of the issue and sale by the Corporation of the Purchased Shares and the Additional Shares, if applicable, and the purchase by the Underwriters of the Purchased Shares and the Additional Shares, if applicable, pursuant to this Agreement;

"Closing Date" means June 14, 2001, or such other date not later than July 13, 2001, as the Corporation and the Underwriters may agree upon in writing or as may be changed pursuant to subparagraph 4(d);

"Closing Time" means 8:30 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Corporation and the Underwriters may agree;

"Common Shares" means the common shares in the capital of the Corporation;

"Corporation" means Toromont Industries Ltd.;

"Corporation Securities Reports" means all information or proxy circulars, annual information forms, financial statements, material change reports, press releases and other documents required to be filed by the Corporation pursuant to Canadian Securities Laws;

"Distribution" means "distribution" or "distribution to the public" as those terms are defined under Canadian Securities Laws;

"Environmental Claims" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of non-compliance or violation, investigations or proceedings relating in any way to any Environmental Law;

"Environmental Law" means, with respect to the Corporation or any of its subsidiaries, any federal, provincial, local or municipal or other governmental statute, law, rule, regulation and any published judicial or administrative interpretation thereof including any judicial or administrative order, consent, decree or judgment binding on or applicable to the Corporation or any of its subsidiaries, relating to the environment, health, safety or any chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority;

"Final Prospectus" means the (final) short form prospectus of the Corporation to be dated no later than June 8, 2001 (in both the English and French languages unless the context indicates otherwise);

"Financial Information" has the meaning given to it in clause 4(a)(iii);

"Notice" has the meaning given to it in paragraph 22;

"Offering Documents" means the Preliminary Prospectus, the Final Prospectus and any Prospectus Amendment;

"Person" shall include any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation (with or without share capital), unincorporated association, trust, trustee, executor, administrator or other personal representative, regulatory body, agency, government or governmental agency, authority or entity, in each case howsoever designated or constituted;

"Preliminary Prospectus" means the preliminary short form prospectus of the Corporation dated May 25, 2001 (in both the English and French languages unless the context indicates otherwise);

"Prospectus" means, collectively, the Preliminary Prospectus and the Final Prospectus;

"Prospectus Amendment" means any amendment to the Preliminary Prospectus or the Final Prospectus (in both the English and French languages unless the context indicates otherwise);

"Qualifying Provinces" means all of the Provinces of Canada other than Newfoundland;

"Rule 144A" means Rule 144A under the 1933 Act;

"Securities Commissions" means, collectively, the securities commission or other securities regulatory authority of each of the Qualifying Provinces;

"Selling Firm" has the meaning given to it in subparagraph 3(a);

"Subsidiaries" means Newfoundland Tractor and Equipment Company Limited, Toromont Industries Inc., Toromont Energy Ltd., Toromont Industries (Quebec) Inc., Aero Tech Manufacturing Inc., Toronto Process Systems Inc. and Lewis Refrigeration Co. and **"Subsidiary"** means any one of the foregoing;

"Underwriting Fee" has the meaning given to it in paragraph 8;

"Underwriting Fee (Additional Shares)" has the meaning given to it in paragraph 8; and

"Underwriting Fee (Purchased Shares)" has the meaning given to it in paragraph 8.

Unless otherwise expressly provided in this Agreement, words importing only the singular number include the plural and vice versa and words importing gender include all genders. References to "paragraphs", "subparagraphs" or "clauses" are to the appropriate paragraph, subparagraph or clause of this Agreement.

TERMS AND CONDITIONS

1. Offer to Purchase

Subject to the terms and conditions of this Agreement, the Underwriters severally and not jointly offer to purchase from the Corporation and by its acceptance of this Agreement the Corporation hereby agrees to issue and sell to the Underwriters, at the Closing Time, all but not less than all of the Purchased Shares at a price of $23.50 per Purchased Share, being an aggregate purchase price of $58,750,000 for the Purchased Shares. If, and to the extent that, the Underwriters shall exercise the Size Option to purchase, in whole or in part, the Additional Shares, the Underwriters, severally and not jointly, shall purchase from the Corporation and the Corporation shall issue and sell to the Underwriters, at the Closing Time, the number of Additional Shares at a purchase price of $23.50 per Additional Share.

2. Compliance with Securities Laws

The Corporation will prepare and, as soon as possible, and in any event not later than 12:00 p.m. (Toronto time) on May 25, 2001, file the Preliminary Prospectus in the English language and, by 5:00 p.m. (Toronto time) on May 25, 2001, file the Preliminary Prospectus in the French language and all other necessary documents, and take all necessary steps to qualify the Purchased Shares and the Additional Shares for Distribution in each of the Qualifying Provinces and shall obtain by 4:30 p.m. (Toronto time) on May 25, 2001, pursuant to National Policy 43-201 of the Securities Commissions of the Qualifying Provinces an MRRS Decison Document evidencing the issuance by the Securities Commissions of a receipt of the Preliminary Prospectus.

The Corporation shall fulfil and comply with, to the satisfaction of the Underwriters, the Canadian Securities Laws required to be fulfilled or complied with by the Corporation to qualify the Purchased Shares and the Additional Shares, if any, for Distribution in the Qualifying Provinces through the Underwriters or any Selling Firm. These requirements, including the issuance of a receipt for the Final Prospectus from the applicable securities regulatory authorities, shall be fulfilled in Qualifying Provinces as soon as practicable but in any event not later than 5:00 p.m. (Toronto time) on June 8, 2001, or in any case, by such other time and/or later date or dates as the Corporation and the Underwriters may agree.

3. Distribution of Purchased Shares and Additional Shares

(a) The Underwriters have complied and will comply, and shall require any investment dealer or broker, other than the Underwriters, with which the Underwriters have a contractual relationship in respect of the distribution of the Purchased Shares (a **"Selling Firm"**) to comply, with the Canadian Securities Laws in connection with the distribution of the Purchased Shares and the Additional Shares, and shall offer the Purchased Shares and the Additional Shares for sale to the public directly and through Selling Firms upon the terms and conditions set out in the Prospectus and this Agreement. The Underwriters have offered and will offer, and shall require any Selling Firm to offer, for sale to the public and sell the Purchased Shares and the Additional Shares only in those jurisdictions where they may be lawfully offered for sale or sold.

(b) The Underwriters shall, and shall require any Selling Firm to agree to, distribute the Purchased Shares and the Additional Shares in a manner which complies with and observes all applicable laws and regulations in each jurisdiction into and from which they may offer to sell the Purchased Shares and the Additional Shares or distribute the Prospectus or any Prospectus Amendment in connection with the Distribution of the Purchased Shares and the Additional Shares and will not, directly or indirectly, offer, sell or deliver any Purchased Shares or the Additional Shares or deliver the Prospectus or any Prospectus Amendment to any Person in any jurisdiction other than in the Qualifying Provinces except in a manner which will not require the Corporation to comply with the registration, prospectus, filing or other similar requirements under the applicable securities laws of such other jurisdictions.

(c) For the purposes of this paragraph, the Underwriters shall be entitled to assume that the Purchased Shares and the Additional Shares are qualified for distribution in any Qualifying Province where a receipt or similar document for the Prospectus shall have been obtained from the applicable Securities Commission following the filing of the Prospectus.

(d) The Corporation and the Underwriters agree that the provisions of Schedule A to this Agreement, entitled "United States Offers and Sales", apply in respect of offers and sales in the United States and are incorporated by reference in and shall form part of this Agreement.

4. (a) Deliveries to Underwriters

The Corporation shall cause to be delivered to the Underwriters:

(i) on the date hereof, copies of the Preliminary Prospectus signed as required by the Canadian Securities Laws and any other applicable laws including copies of any documents or information incorporated by reference therein;

(ii) concurrently with the filing of the Prospectus or Prospectus Amendment with the Securities Commissions, copies of the Prospectus and any Prospectus Amendment signed as required by the Canadian Securities Laws and any other applicable laws, including copies of any documents or information incorporated by reference therein;

(iii) at the time of the delivery to the Underwriters pursuant to this paragraph 4 of the Preliminary Prospectus, the Prospectus or any Prospectus Amendment, in each case in the French language,

(A) an opinion of the Corporation's local counsel in Québec, dated the date of such document, and acceptable in form and substance to the Underwriters' counsel, that except for any capitalization tables, financial statements, notes to financial statements and auditors' reports (collectively, the "**Financial Information**") contained in such document, the document in the French language is in all material respects a complete and accurate translation of the document in the English language and that such versions are not susceptible of any materially different interpretations with respect to any material matter contained therein; and

(B) an opinion of the Corporation's auditors, Ernst & Young LLP, dated the date of such document, and acceptable in form and substance to the Underwriters' counsel, Torys, that the Financial Information contained in such document in the French language is in all material respects a complete and proper translation of the Financial Information contained in such document in the English language, provided that such opinion shall not be required to be delivered in respect of the Preliminary Prospectus;

(iv) at the time of the delivery to the Underwriters pursuant to this paragraph 4 of the Prospectus or any Prospectus Amendment, a comfort letter from the Corporation's auditors, Ernst & Young LLP dated the date of the Prospectus or the Prospectus Amendment, as the case may be, and acceptable in form and substance to the Underwriters, with respect to the financial and accounting information contained in the Prospectus or Prospectus Amendment, as the case may be, which comfort letter shall be based on a review by the auditors having a cut-off date not more than two business days prior to the date of the comfort letter and shall be in addition to any comfort letters which must be filed with securities regulatory authorities pursuant to applicable securities laws; and

(v) as soon as practicable but in any event not later than 5:00 p.m. (Toronto time) on the day after an MRRS Decision Document is required to be obtained under this Agreement for the Preliminary Prospectus or the Final Prospectus or any Prospectus Amendment, such numbers of commercial copies of the Preliminary Prospectus, the Prospectus and any Prospectus Amendment, including copies of any documents or information incorporated by reference therein as the Underwriters may reasonably require, without charge, in such cities as the Underwriters may reasonably request.

(b) Representations as to Prospectus and Prospectus Amendments

Delivery of the Prospectus and any Prospectus Amendment shall constitute a representation and warranty by the Corporation to the Underwriters that, as at the date of the Prospectus or Prospectus Amendment, as the case may be, (i) all information and statements (except information and statements relating solely to the Underwriters and provided by the Underwriters) contained in the Prospectus and any Prospectus Amendments are or will be, as the case may be, true and correct in all material respects and contain no misrepresentation and constitute full, true and plain disclosure of all material facts relating to the Corporation, the Purchased Shares and the Additional Shares; (ii) no material fact or information has been omitted from such disclosure (except facts or information relating solely to the Underwriters and provided by the Underwriters) which is required to be stated in such disclosure or is necessary to make the statements or information contained in such disclosure not misleading in light of the circumstances under which they were made; (iii) such documents comply fully with the requirements of the Canadian Securities Laws and have been filed (and a receipt therefor will be obtained, if required) in each of the Qualifying Provinces; and (iv) except as set forth or contemplated in the Prospectus or any Prospectus Amendment or as has otherwise been publicly disclosed, there has been no material adverse change (actual, anticipated, contemplated, proposed or threatened) in the business, affairs, prospects, operations, assets, liabilities (contingent or otherwise) or capital of the Corporation since December 31, 2000. Such deliveries shall also constitute the Corporation's consent to the use by the Underwriters and any Selling Firm of the Final Prospectus and any Prospectus Amendment in connection with the distribution of the Purchased Shares and the Additional Shares in the Qualifying Provinces in compliance with this Agreement and the Canadian Securities Laws.

(c) Commercial Copies

The Corporation shall cause commercial copies of the Preliminary Prospectus, the Final Prospectus and any Prospectus Amendment in the English and French languages to be delivered by the Underwriters without charge, in such numbers and in such cities as the Underwriters may reasonably request by verbal instructions to the printer of the Prospectus given by the Underwriters.

(d) Completion of Distribution

The Underwriters shall, after the Closing Time, (i) use their reasonable efforts to complete distribution of the Purchased Shares and any Additional Shares as promptly as possible; and (ii) give prompt written notice to the Corporation and The Toronto Stock Exchange when, in the opinion of the Underwriters, they have completed Distribution of the Purchased Shares and any Additional Shares, and provide the Corporation with a breakdown of the total proceeds realized in each of the Qualifying Provinces and any other jurisdiction from such Distribution.

5. Material Change During Distribution

During Distribution of the Purchased Shares and any Additional Shares under the Prospectus, the Corporation shall promptly notify the Underwriters in writing of:

(a) any material change (actual, anticipated, contemplated, proposed or threatened, financial or otherwise) in the business, financial condition, affairs, operations, business prospects, assets, liabilities or obligations (contingent or otherwise) or capital of the Corporation;

(b) any material fact which has arisen or has been discovered and would have been required to have been stated in the Prospectus had the fact arisen or been discovered on, or prior to, the date of the Prospectus; and

(c) any change in any material fact or matter covered by a statement contained in the Prospectus or any Prospectus Amendment which change is, or may be, of such a nature as to render any statement in the Prospectus or any Prospectus Amendment misleading or untrue or which would result in a misrepresentation in the Prospectus or any Prospectus Amendment or which would result in the Prospectus or any Prospectus Amendment not complying (to the extent that such compliance is required) with the Canadian Securities Laws or the laws of any Qualifying Province.

During the period of Distribution of the Purchased Shares and any Additional Shares, the Corporation shall promptly, and in any event within any applicable time limitation, comply, to the reasonable satisfaction of the Underwriters, with all applicable filings and other requirements under the Canadian Securities Laws as a result of such material fact or change; provided that the Corporation shall not file any Prospectus Amendment or other document without first obtaining from the Underwriters the approval of the Underwriters, after consultation with the Underwriters with respect to the form and content thereof, such approval not to be unreasonably withheld. The Corporation shall in good faith discuss with the Underwriters any fact or change in circumstances (actual, anticipated, contemplated, proposed or threatened, financial or otherwise) which is of such a nature that there is reasonable doubt whether written notice need be given under this paragraph.

The Corporation shall also prepare and deliver promptly to the Underwriters signed and certified copies of all Prospectus Amendments. Concurrently with the delivery of any Prospectus

Amendment, the Corporation shall deliver to the Underwriters, with respect to such Prospectus Amendment, documents similar to those referred to in paragraph 4.

6. Change in Canadian Securities Laws

If during the period of Distribution of the Purchased Shares and any Additional Shares, there shall be any change in the Canadian Securities Laws which, in the opinion of the Underwriters, acting reasonably, requires the filing of a Prospectus Amendment, the Corporation shall, to the reasonable satisfaction of the Underwriters, promptly prepare and file such Prospectus Amendment with the appropriate securities regulatory authority in each of the Qualifying Provinces where such filing is required; provided that the Corporation shall not file any Prospectus Amendment or other document without first obtaining from the Underwriters the approval of the Underwriters, after consultation with the Underwriters with respect to the form and content thereof, such approval not to be unreasonably withheld.

7. Other Covenants, Representations and Warranties of the Corporation

The Corporation hereby covenants, represents and warrants as follows to each of the Underwriters and acknowledges that each of the Underwriters is relying upon such representations, warranties and covenants in connection with its execution and delivery of this Agreement:

(a) each of the Corporation and each of the Subsidiaries is and will be at the Closing Time duly incorporated, amalgamated or continued, as the case may be, and validly subsisting under the laws of its governing jurisdiction, and has and will at the Closing Time have all requisite power and authority and is duly qualified to own, lease and operate its properties and assets and conduct its business as currently conducted; the Corporation and each of the Subsidiaries is current with all filings required to be made under the laws of Canada and the Province of Ontario and all other jurisdictions in which it exists or carries on any business and has, except as disclosed in the Prospectus, all necessary licences, leases, permits, authorizations and other approvals necessary to permit it to conduct its business, except where the absence of such power and authority or failure to make any filing or obtain any licence, lease, permit, authorization or other approval would not result in a material adverse change to the Corporation and the Subsidiaries taken as a whole, and all such licenses, leases, permits, authorizations and other approvals are in full force and effect in accordance with their terms except where the failure to so maintain such licenses, leases, permits, authorizations or other approvals would not result in a material adverse change to the Corporation and the Subsidiaries taken as a whole;

(b) the Corporation is a reporting issuer (as such term is defined under the *Securities Act* (Ontario)), or its equivalent, in each of the Qualifying Provinces and the Corporation is not in default, in any material respect, of any requirement of any Canadian Securities Laws, and the Corporation is not included in a list of defaulting reporting issuers maintained by any of the Qualifying Provinces. The Corporation is an eligible issuer under the Short Form System in each of the Qualifying Provinces. The Corporation is in compliance with all other of its obligations to make timely disclosure of all material changes relating to it and no such disclosure has been made on a confidential basis and there is no material change relating to the Corporation which has occurred and with respect to which the requisite material change report has not been filed, except to the extent that this offering constitutes a material change;

(c) the Corporation has filed all Corporation Securities Reports required to be filed since January 1, 1999. Each such Corporation Securities Report and each of the Offering Documents was, as of the date of filing such report or document, in compliance in all material aspects with all applicable requirements of Canadian Securities Laws and none of such Corporation Securities Reports or Offering Documents, as of their respective filing dates, contained any untrue statement of material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(d) as at the date hereof, the authorized capital of the Corporation consists of an unlimited number of preference shares, issuable in series, and an unlimited number of Common Shares, of which no preference shares and 29,034,898 Common Shares are issued and outstanding as fully paid and non-assessable shares in the capital of the Corporation;

(e) as at the Closing Date, no Person will have any agreement, option, right or privilege (whether pre-emptive or contractual) capable of becoming an agreement for the purchase, subscription or issuance of any securities of the Corporation from or by the Corporation except pursuant to the Corporation's employee stock option plan (the "**Option Plan**") and no other rights, warrants or options to acquire, or instruments convertible into or exchangeable for, any shares in the capital of the Corporation, will be outstanding;

(f) the Corporation has and will have at the Closing Time all requisite corporate power and authority, and on or before Closing Time will have taken all actions required to: (i) enter into this Agreement; (ii) issue, sell and deliver the Purchased Shares and the Additional Shares in accordance with the provisions of this Agreement; and (iii) to carry out all the terms and provisions hereof;

(g) all necessary corporate action has been taken by the Corporation to authorize the execution, delivery and performance of this Agreement and the issuance, sale and delivery of the Purchased Shares and the Additional Shares; this Agreement has been duly executed and delivered by the Corporation; and this Agreement constitutes a valid and binding obligation of the Corporation, enforceable against it in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting the rights of creditors generally, and except as limited by the application of equitable principles when equitable remedies are sought and by the fact that rights to indemnity, contribution and waiver, and the ability to sever unenforceable terms, may be limited by applicable law;

(h) the Corporation and each of the Subsidiaries is not (i) in breach or violation of any of the terms or provisions of, or in default under (whether after notice or lapse of time or both) any indenture, mortgage, deed of trust, loan agreement or other agreement (written or oral) or instrument to which it is a party or by which it is bound or to which any of its property or assets is subject, which breach or violation or the consequences thereof would, alone or in the aggregate, result in an adverse material change; or (ii) in violation of the provisions of its articles, by-laws or resolutions or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its properties which violation or the consequences thereof would, alone or in the aggregate, result in a material adverse change to the Corporation;

(i) the execution and delivery of this Agreement, the issue, sale and delivery of the Purchased Shares and any Additional Shares pursuant to this Agreement and the performance or the consummation of the transactions contemplated in this Agreement, do not and will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under (whether after notice or lapse of time or both), any indenture, mortgage, deed of trust, loan agreement, lease or other agreement (written or oral) or instrument to which the Corporation or any Subsidiary is a party or by which any of them is bound or to which any of their property or assets is subject, which breach or violation or the consequences thereof would, alone or in the aggregate, result in an adverse material change, nor will such action conflict with or result in any violation of the provisions of the articles, by-laws or resolutions of the Corporation or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over it or any of its properties which violation or the consequences thereof would, alone or in the aggregate, result in an adverse material change to the Corporation and the Subsidiaries considered as a whole;

(j) other than as have or will have been obtained prior to Closing, under Canadian Securities Laws no consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body is required for the issue, sale and delivery of the Purchased Shares and any Additional Shares or the consummation by the Corporation of the transactions contemplated in this Agreement;

(k) the Purchased Shares and the Additional Shares have been authorized for issuance and, when certificates for such Purchased Shares and Additional Shares are countersigned by the Corporation's transfer agent and registrar, those Purchased Shares and Additional Shares for which payment has been received will be validly issued as fully paid and non-assessable shares in the capital of the Corporation;

(l) there are no legal or governmental actions, proceedings or investigations pending or to the knowledge of the Corporation, contemplated or threatened, at law or in equity or before or by any federal, provincial, municipal or other governmental department, commission, board or agency, domestic or foreign, pending or to the knowledge of the Corporation, threatened against, or involving the assets, properties or business of, the Corporation or the Subsidiaries, nor are there any matters under discussion with a governmental authority relating to governmental charges or assessments asserted by any such authority, which (i) except as disclosed in the Final Prospectus, could reasonably be expected to materially adversely affect the Corporation, or (ii) questions the validity of the issuance, sale or delivery of the Purchased Shares and the Additional Shares or the validity of any action taken or to be taken by the Corporation pursuant to or in connection with this Agreement;

(m) no person, firm or corporation, other than the Underwriters, is entitled to any commission or finder's fee in connection with the transactions contemplated in the Agreement;

(n) the Corporation will apply the net proceeds from the issue and sale of the Purchased Shares and the Additional Shares to be issued and sold by it hereunder in accordance with the description set forth under the heading "Use of Proceeds" in the Prospectus;

(o) the Corporation will use its best efforts to arrange for the listing of the Purchased Shares and the Additional Shares on The Toronto Stock Exchange;

(p) CIBC Mellon Trust Company at its principal office in Toronto is duly appointed as the registrar and transfer agent for the Common Shares;

(q) except as disclosed in the Prospectus, since December 31, 2000 (i) there has not been any material change or a change in material fact (actual, proposed, threatened or contemplated) in the business, affairs, operations, business prospects, assets, liabilities or obligations, contingent or otherwise, or capital of the Corporation and (ii) there has been no transaction entered into by the Corporation, other than those in the ordinary course of business, which is material to the Corporation; and

(r) there are no "significant acquisitions", "significant dispositions" and "significant probable acquisitions", including the proposed acquisition by the Corporation of Powell Equipment Limited, for which the Corporation is required, pursuant to applicable Canadian Securities Laws, including Parts 4, 5 and 6 of National Instrument 44-101, to include additional financial statements disclosure.

8. Services Provided by Underwriters and Underwriting Fee

In return for the Underwriters' services in distributing the Purchased Shares and Additional Shares hereunder, both directly and to other registered dealers as brokers, the Corporation agrees to pay the Underwriters a fee of $0.94 per Purchased Share for an aggregate of $2,350,000 (the **"Underwriting Fee (Purchased Shares)"**) at the Closing Time and the Corporation agrees to pay the Underwriters a fee of $0.94 per Additional Share purchased at the Closing Time pursuant to the exercise of the Size Option (the **"Underwriting Fee (Additional Shares)"**). The Underwriting Fee (Purchased Shares) and the Underwriting Fee (Additional Shares) are herein sometimes referred to collectively as the **"Underwriting Fee"**.

9. (a) Delivery of Purchase Price, Underwriting Fee and Certificates

The purchase and sale of the Purchased Shares shall be completed at the Closing Time at the offices of Davies Ward Phillips & Vineberg LLP or at such other place as the Underwriters and the Corporation may agree upon. At the Closing Time, the Corporation shall duly and validly deliver to TDSI on behalf of the Underwriters definitive certificates representing the Purchased Shares and any Additional Shares registered in the name of TDSI or in such other name or names as shall be designated by TDSI on behalf of the Underwriters, against payment by the Underwriters to the Corporation of the aggregate purchase price for the Purchased Shares and any Additional Shares by certified cheques or bank drafts, net of the Underwriting Fee, against the delivery of cross-receipts therefor.

(b) Delivery of Certificates to Transfer Agent

The Corporation shall, prior to the Closing Date, make all necessary arrangements for the exchange of the definitive certificates representing the Purchased Shares and any Additional Shares on the delivery date, at the principal offices of CIBC Mellon Trust Company in the City of Toronto for certificates representing such number of Purchased Shares and Additional Shares, if any, registered in such names as shall be designated by the Underwriters not less than two Business Days prior to the Closing Time. The Corporation shall pay all fees and expenses payable to CIBC Mellon Trust Company in connection with the preparation, delivery, certification and exchange of the Purchased Shares and any Additional Shares contemplated by this subparagraph and the fees and expenses payable to CIBC Mellon Trust Company in connection with the initial or additional transfers as may be required in the course of the distribution of the Purchased Shares and any Additional Shares.

(c) Exercise of Size Option

The Underwriters shall not be under any obligation to purchase any of the Additional Shares prior to the delivery to the Corporation of the Size Option Notice (as hereinafter defined) to exercise of the Size Option. TDSI on behalf of the Underwriters may exercise the Size Option at any time prior to the Size Option Expiry Time by delivery of written notice to the Corporation of the number of Additional Shares in respect of which the Size Option is being exercised (an **"Size Option Notice"**). Upon exercise of the Size Option as provided herein, the Corporation shall become obligated to issue and sell the total number of Additional Shares in respect of which the Underwriters are exercising the Size Option, to each of the Underwriters and, subject to the terms and conditions herein set forth, each of the Underwriters severally and not jointly shall become obligated to purchase from the Corporation the same percentage of the total number of the Additional Shares in respect of which the Underwriters are then exercising the Size Option as such Underwriter is obligated to purchase of the aggregate number of Purchased Shares, as adjusted by the Underwriters, if necessary, in such manner as they deem advisable to avoid fractional shares. If the Size Option is exercised as to all or any portion of the Additional Shares, one or more certificates in definitive form for such Additional Shares, and payment therefor, shall be delivered at the Closing Time in the manner and upon the terms and conditions and with the deliveries as set forth in paragraph 10.

10. Closing Conditions

The Underwriters' obligation to purchase the Purchased Shares and, if the Size Option has been exercised, the applicable number of Additional Shares, at the Closing Time shall be subject to the accuracy of the representations and warranties of the Corporation contained in this Agreement as of the date of this Agreement and as of the Closing Date, the performance by the Corporation of its obligations under this Agreement and the following conditions:

(a) The Underwriters shall have received at the Closing Time a legal opinion dated the Closing Date, in form and substance satisfactory to counsel to the Underwriters, addressed to the Underwriters and counsel to the Underwriters from counsel to the Corporation as to the laws of Canada and the Qualifying Provinces, which counsel in turn may rely upon the opinions of local counsel where they deem such reliance proper as to the laws other than those of Canada and Ontario, and as to matters of fact, on certificates of the auditors of the Corporation, public officials and officers of the Corporation and correspondence between public and stock exchange officials with respect to the following matters:

(i) as to the amalgamation, continuance or incorporation and existence of each of the Corporation and the Subsidiaries under the laws of its governing jurisdiction, the due qualification of the Corporation to carry on its business as described in the Final Prospectus, and as to the corporate power and authority of the Corporation to own, lease and operate its properties and assets to conduct its business as described in the Final Prospectus and to enter into and to carry out its obligations under this Agreement and to issue the Purchased Shares and the Additional Shares as contemplated by this Agreement;

(ii) the authorized capital of the Corporation and in each of its Subsidiaries and the issued and outstanding shares in the capital of the Corporation and of each of its Subsidiaries (other than Lewis Refrigeration Co.) immediately prior to the Closing;

(iii) that the Corporation is a reporting issuer not in default in each of the Qualifying Provinces;

(iv) that the Corporation is an eligible issuer under the Short Form System in each of the Qualifying Provinces;

(v) as to the registered owner of all of the issued and outstanding shares of the Subsidiaries (other than Lewis Refrigeration Co.);

(vi) that all necessary corporate action has been taken by the Corporation to authorize the execution and delivery of each of the Preliminary Prospectus and the Final Prospectus and, if applicable, any Prospectus Amendments, and the filing of such documents under the Canadian Securities Laws in each of the Qualifying Provinces;

(vii) that the Purchased Shares and Additional Shares, if any, have been validly authorized and issued by the Corporation and upon payment of the purchase price for the Purchased Shares and Additional Shares, if any, will be outstanding as fully paid and non-assessable shares;

(viii) that the attributes of the Purchased Shares and the Additional Shares are consistent in all material respects with the descriptions in the Final Prospectus;

(ix) that the execution and delivery of this Agreement, the issue and sale of the Purchased Shares and the issue and sale of the Additional Shares, and generally, the consummation of the transactions contemplated by this Agreement, do not violate any applicable laws of the Province of Ontario or the laws of Canada applicable therein and do not and will not result in a breach (whether after notice or lapse of time or both) of any of the terms, conditions or provisions of the articles, by-laws or resolutions of the board of directors or the shareholders of the Corporation or any material agreement entered into by the Corporation;

(x) that this Agreement has been duly authorized and executed by the Corporation and constitutes a legal, valid and binding obligation of the Corporation enforceable against it in accordance with its terms, except as enforcement of this Agreement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought and by the fact that rights to indemnity, contribution and waiver, and the ability to sever unenforceable terms, may be limited by applicable law;

(xi) confirming the statement relating to the statutes listed under the heading "Eligibility for Investment" in the Prospectus is accurate;

(xii) that the Purchased Shares and Additional Shares, if, as and when listed on a prescribed stock exchange, will be qualified investments under the *Income Tax Act* (Canada) and the Regulations thereunder for trusts governed by registered retirement savings plans, registered retirement income funds and deferred profit sharing plans and are not "foreign property" for purposes of Part XI of the *Income Tax Act* (Canada) at the date hereof;

(xiii) that CIBC Mellon Trust Company at its principal office in the City of Toronto has been duly appointed as the transfer agent and registrar for the Common Shares;

(xiv) that all necessary documents have been filed and all requisite proceedings have been taken and all necessary approvals, permits, consents and authorizations of the appropriate regulatory authorities under the Canadian Securities Laws have been obtained by the Corporation to qualify the Purchased Shares and, if issued and sold, the Additional Shares, in each case for Distribution in each of the Qualifying Provinces through investment dealers or brokers registered under the applicable laws of the Qualifying Provinces who have complied with the relevant provisions of such applicable legislation;

(xv) that the Purchased Shares and the Additional Shares have been conditionally approved for listing by The Toronto Stock Exchange; and

(xvi) as to all other legal matters reasonably requested by counsel to the Underwriters relating to the Distribution of the Purchased Shares and the Additional Shares;

and for the purpose of the above opinions as to certain shares being issued and outstanding as fully paid shares, such counsel may rely on a certificate of an officer of the Corporation as to receipt by the Corporation of the consideration approved by the board of directors of the Corporation for the issuance of such shares.

(b) The Underwriters shall have received at the Closing Time a legal opinion dated the Closing Date, in form and substance satisfactory to counsel to the Underwriters, addressed to the Underwriters from Davies Ward Phillips & Vineberg LLP, regarding compliance with the laws of Quebec relating to the use of the French language in connection with the documents (including the Preliminary Prospectus, the Final Prospectus, Prospectus Amendments and certificates representing the Purchased Shares and the Additional Shares) to be delivered to purchasers in the province of Quebec.

(c) The Underwriters shall have received at the Closing Time a legal opinion dated the Closing Date, addressed to the Underwriters from counsel to the Underwriters, Torys, with respect to certain of the matters in subparagraph 10(a); provided that counsel to the Underwriters shall be entitled to rely on the opinions of local counsel as to matters governed by the laws of jurisdictions other than the laws of Canada and Ontario and as to matters of fact, on certificates of the auditors of the Corporation, public officials and officers of the Corporation; and provided further that counsel to the Underwriters shall be entitled to rely upon the opinion of counsel to the Corporation.

(d) The Underwriters shall have received at the Closing Time a letter dated the Closing Date, in form and substance satisfactory to the Underwriters addressed to the Underwriters and the directors of the Corporation from the auditors of the Corporation, Ernst & Young LLP, confirming the continued accuracy of the comfort letter to be delivered to the Underwriters pursuant to clause 4(a)(iv) with such changes as may be necessary to bring the information in such letter forward to a date not more than two Business Days prior to the Closing Date, which changes shall be acceptable to the Underwriters, acting reasonably.

(e) The Underwriters shall have received at the Closing Time certificates dated the Closing Date, addressed to the Underwriters and counsel to the Underwriters and signed by appropriate officers of the Corporation, with respect to the articles and by-laws of the Corporation, all resolutions of the board of directors of the Corporation relating to this Agreement, the incumbency and specimen signatures of signing officers of the Corporation and with respect to such other matters as the Underwriters may reasonably request.

(f) The Underwriters shall have received at the Closing Time a certificate or certificates dated the Closing Date, addressed to the Underwriters and counsel to the Underwriters and signed on behalf of the Corporation by the Chairman and Chief Executive Officer and by the Vice President, Finance and Chief Financial Officer of the Corporation or other officers of the Corporation acceptable to the Underwriters, certifying for and on behalf of the Corporation after having made due enquiry and after having carefully examined the Final Prospectus and any Prospectus Amendments, that:

(i) since the respective dates as of which information is given in the Final Prospectus as amended by any Prospectus Amendment (A) there has been no material change (actual, anticipated, contemplated, proposed or threatened, whether financial or otherwise) in the business, financial condition, affairs, operations, business prospects, assets, liabilities or obligations (contingent or otherwise) or capital of the Corporation, and (B) no transaction has been entered into by either of the Corporation which is material to the Corporation, other than as disclosed in the Final Prospectus or the Prospectus Amendments, as the case may be;

(ii) no order, ruling or determination having the effect of suspending the sale or ceasing the trading of the Purchased Shares, the Additional Shares or any other securities of the Corporation has been issued by any regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or are pending or, to the knowledge of such officers, contemplated or threatened under any of the Canadian Securities Laws or by any other regulatory authority;

(iii) the Corporation has complied with and satisfied in all material respects the covenants, terms and conditions of this Agreement on its part to be complied with and satisfied up to the Closing Time; and

(iv) the representations and warranties of the Corporation contained in this Agreement are true and correct in all material respects as of the Closing Date with the same force and effect as if made at and as of the Closing Time after giving effect to the transactions contemplated by this Agreement.

(g) The Underwriters shall have received at the Closing Time a legal opinion, in form and substance satisfactory to the Underwriters, addressed to the Underwriters from U.S. counsel regarding the initial resale of the Purchased Shares and any Additional Shares by the Underwriters under Rule 144A.

(h) The Corporation shall have received the conditional approval of The Toronto Stock Exchange to the listing of the Purchased Shares and the Additional Shares for trading.

(i) The Underwriters shall have received at the Closing Time an agreement in a form reasonably satisfactory to TDSI, on behalf of the Underwriters, signed by each of the Chairman and Chief Executive Officer of the Corporation and the Vice President, Finance and Chief Financial Officer of the Corporation, pursuant to which such executives, subject to certain customary exceptions, agree not to dispose of common shares for a period commencing on the Closing Date, to the date 90 days after the Closing Date, without the prior written consent of TDSI, on behalf of the Underwriters (which consent shall not be unreasonably withheld, delayed or refused).

11. Rights of Termination

(a) Litigation

If prior to the Closing Time any inquiry, action, suit, investigation or other proceeding whether formal or informal is commenced or threatened, or any order or ruling is issued (and has not bee rescinded, revoked or withdrawn), by any securities regulatory authority, The Toronto Stock Exchange, or any other competent authority, in relation to the Corporation or the Corporation's directors and officers which, in the sole opinion of any of the Underwriters, operates to prevent or restrict or suspend or to materially adversely affect the trading in or the distribution of the Purchased Shares or any Additional Shares, the Underwriter which made such determination shall be entitled, at its sole option, in accordance with subparagraph 11(e), to terminate its obligations under this Agreement by written notice to that effect given to the Corporation at any time up to the Closing Time.

(b) Disaster Out Clause

If prior to the Closing Time (i) there should develop, occur or come into effect or existence any event, action, state, condition or major financial occurrence of national or international consequence or any law or regulation which, in the sole opinion of any of the Underwriters, seriously adversely affects or involves, or will seriously adversely affect or involve, financial markets or the business of the Corporation and its Subsidiaries on a consolidated basis, then, any Underwriter which made such determination shall be entitled, at its sole option, in accordance with subparagraph 11(e), to terminate its obligations under this Agreement by written notice to that effect given to the Corporation at any time up to the Closing Time.

(c) Material Change

If, after the date hereof and prior to the Closing Time there should occur any material change or a change in any material fact which results or, in the reasonable opinion of any of the Underwriters, might reasonably be expected to have a significant adverse effect on the market price or value of the Purchased Shares or any Additional Shares, any Underwriter shall be entitled, at its sole option, in accordance with subparagraph 11(e), to terminate its obligations under this Agreement by written notice to that effect given to the Corporation at any time up to the Closing Time.

(d) Non-Compliance With Conditions

The Corporation agrees that all terms and conditions in paragraph 10 shall be construed as conditions and complied with so far as they relate to acts to be performed or caused to be performed by it, that it will use its best efforts to cause such conditions to be complied with, and that any material breach or failure by it to comply with any such conditions shall entitle any of the Underwriters to terminate its obligations to purchase the Purchased Shares or any Additional Shares by notice to that effect given to the Corporation at or prior to the Closing Time, unless otherwise expressly provided in this Agreement. The Underwriters may waive, in whole or in part, or extend the time for compliance with, any terms and conditions without prejudice to their rights in respect of any other terms and conditions or any other or subsequent breach or non-compliance, provided that any such waiver or extension shall be binding upon the Underwriters only if such waiver or extension is in writing and signed by all of the Underwriters.

(e) Exercise of Termination Rights

The rights of termination contained in subparagraphs 11(a), (b), (c) and (d) may be exercised by any of the Underwriters and are in addition to any other rights or remedies any of the Underwriters may have in respect of any default, act or failure to act or non-compliance by the Corporation in respect of any of the matters contemplated by this Agreement or otherwise. In the event of any such termination, there shall be no further liability on the part of the Underwriter which exercised such termination to the Corporation or on the part of the Corporation to such Underwriter except in respect of any liability which may have arisen prior to or arise after such termination under any of paragraphs 12, 13 and 15. A notice of termination given by an Underwriter under any of subparagraphs 11(a), (b), (c) and (d) shall not be binding upon any other Underwriter.

12. Indemnity

(a) The Corporation shall protect, hold harmless and indemnify the Underwriters and their affiliates and their respective directors, officers, employees, shareholders and agents (collectively, the **"Indemnified Parties"** and individually an **"Indemnified Party"**) from and against all losses, claims, damages, liabilities, costs and expenses, including, without limitation, all amounts paid to settle actions or satisfy judgments or awards and all reasonable legal fees and expenses, caused by or arising directly or indirectly by reason of:

(i) any breach of or default under any representation, warranty, covenant of the Corporation in the Agreement or any other document to be delivered pursuant hereto, or the failure of the Corporation to comply with any of its obligations hereunder;

(ii) any information or statement contained in any of the Offering Documents (except any information or statement relating solely to the Underwriters and provided by the Underwriters) or in any other document or material filed or delivered by or on behalf of the Corporation pursuant to this agreement (except any document or material delivered or filed solely by the Underwriters) being or being alleged to be a misrepresentation or untrue or any omission or alleged omission to state therein any material fact (except facts relating solely to the Underwriters) required to be stated therein or necessary to make any of the statements therein not misleading in light of the circumstances in which they were made;

(iii) any order made or any inquiry, investigation or proceeding instituted, threatened or announced by any court, securities regulatory authority, stock exchange or by any other competent authority, based upon any untrue statement, omission or misrepresentation or alleged untrue statement, omission or misrepresentation (except a statement, omission or misrepresentation relating solely to the Underwriters) in any of the Offering Documents (except any document or material delivered or filed solely by the Underwriters), preventing or restricting the trading in or the sale or distribution of any of the Securities;

(iv) the Corporation not complying with any requirement of any Securities Laws to make any document available for inspection, or any breach or violation or alleged breach or violation of any Securities Laws or other applicable securities legislation of any jurisdiction resulting from any action taken or omitted to be taken by the Corporation in connection with the transactions contemplated herein,

and will reimburse the Indemnified Parties for all reasonable costs, charges and expenses, as incurred, which any of them may pay or incur in connection with investigating or disputing any such claim or action related thereto; provided that this indemnity may not be relied upon by the Underwriters in respect of any losses which result from any negligence, wilful misconduct or fraud in the performance of any of the provisions herein by the Underwriters or their respective directors, officers, employees and agents. This indemnity will be in addition to any liability which the Corporation may otherwise have.

(b) If any claim contemplated by this paragraph shall be asserted against any of the Indemnified Parties, or if any potential claim contemplated by this paragraph shall come to the knowledge of any of the Indemnified Parties, the Indemnified Party concerned shall notify in writing the Corporation as soon as reasonably practicable of the nature of such claim (provided that any failure to so notify in respect of any potential claim shall not affect the liability of the Corporation under this paragraph and provided further that any failure to so notify in respect of any actual claim shall affect the Corporation's liability under this paragraph only to the extent that the Corporation is prejudiced by such failure). The Corporation shall, subject as hereinafter provided, be entitled (but not required) to assume the defence on behalf of the Indemnified Party of any suit brought to enforce such claim; provided that the defence shall be through legal counsel selected by the Corporation and acceptable to the Indemnified Party, acting reasonably, and no admission of liability shall be made by the Corporation or the Indemnified Party without, in each case, the prior written consent of all the Indemnified Parties affected and the Corporation, such consent not to be unreasonably withheld. An Indemnified Party shall have the right to employ separate counsel in any such suit and participate in the defence thereof but the fees and expenses of such counsel shall be at the expense of the Indemnified Party unless:

(i) the Corporation fails to assume the defence of such suit on behalf of the Indemnified Party within ten days of receiving notice of such suit;

(ii) the employment of such counsel has been authorized by the Corporation; or

(iii) the named parties to any such suit (including any added or third parties) include both the Indemnified Party and the Corporation and the Indemnified Party shall have received an opinion from its counsel that there are legal defenses available to the Indemnified Parties that are different or in addition to those available to the Corporation or that representation of the Indemnified Party by counsel for the Corporation is inappropriate as a result of the potential or actual conflicting interests of those represented;

(in each of cases (i), (ii) or (iii), the Corporation shall not have the right to assume the defence of such suit on behalf of the Indemnified Party, but the Corporation shall be liable to pay the reasonable fees and expenses of one firm of separate counsel for all Indemnified Parties and, in addition, one firm of local counsel in each applicable jurisdiction). Notwithstanding the foregoing, no settlement may be made by an Indemnified Party without the prior written consent of the Corporation, such consent not to be unreasonably withheld.

(c) The Corporation hereby acknowledges and agrees that, with respect to paragraphs 12 and 13 hereof, the Underwriters are contracting on their own behalf and as agents for their respective affiliates directors, officers, employees and agents and such respective affiliates' directors, officers, employees and agents (collectively, the "**Beneficiaries**"). In this regard, the Underwriters shall act as trustees for the respective beneficiaries of the Corporation's covenants under paragraphs 12 and 13 hereof with respect to the respective beneficiaries and accepts these trusts and shall hold and enforce the covenants on behalf of the Beneficiaries.

13. Contribution

(a) In order to provide for just and equitable contribution in circumstances in which an indemnity provided in paragraph 12 hereof, would otherwise be available in accordance with its terms but is, for any reason not solely attributable to any one or more of the Indemnified Parties, held to be unavailable to or unenforceable by the Indemnified Parties or enforceable otherwise than in accordance with its terms, the Underwriters and the Corporation shall contribute to the aggregate of all claims, damages, liabilities, costs and expenses and all losses (other than losses of profits) of the nature contemplated in paragraph 12 hereof and suffered or incurred by the Indemnified Parties in proportions such that the Underwriters shall be responsible for the portion represented by the percentages set forth in subparagraph 16(c), both as determined pursuant to the provisions hereof, and the Corporation shall, subject to subparagraph 13(b), be responsible for the balance, whether or not it has been sued or sued separately; provided that the Underwriters shall not in any event be liable to contribute, in the aggregate, any amount in excess of such total compensation or any portion thereof actually received. However, no party who has engaged in any fraud, wilful misconduct or negligence shall be entitled to claim contribution from any person who has not engaged in such fraud, wilful misconduct or negligence.

(b) For greater certainty, the Corporation shall not have any obligation to contribute pursuant to this paragraph 13 in respect of any claim except to the extent the indemnity given by it in paragraph 12 hereof would have been applicable to such claim in accordance with its terms, had such indemnity been found to be enforceable and available to the Indemnified Parties.

(c) The Corporation waives all rights of contribution that it may have against the Indemnified Parties relating to any loss, claim, damages, liability, cost or expense in respect of which the Corporation has agreed to indemnify the Indemnified Parties hereunder.

(d) The rights to contribution provided in this paragraph shall be in addition to and not in derogation of any other right to contribution which the Indemnified Parties may have by statute or otherwise at law provided that subparagraphs 13(a) and 13(b) shall apply, *mutatis mutandis*, in respect of such other right.

(e) If an Indemnified Party has reason to believe that a claim for contribution may arise, the Indemnified Party shall give the Corporation notice thereof in writing, but failure to so notify shall not relieve the Corporation of any obligation which it may have to the Indemnified Party under this paragraph provided that the Corporation is not materially prejudiced by such failure, and the right of the Corporation to assume the defence of such Indemnified Party shall apply as set out in paragraph 12 hereof, *mutatis mutandis*.

14. Severability

If any provision of this Agreement is determined to be void or unenforceable in whole or in part, it shall be deemed not to affect or impair the validity of any other provision of this Agreement and such void or unenforceable provision shall be severable from this Agreement.

15. Expenses

Whether or not the transactions contemplated by this Agreement shall be completed, all expenses of or incidental to the grant of the Size Option and the issue, sale and delivery of the Purchased Shares and the Additional Shares and all expenses of or incidental to all other matters in connection with the transactions set out in this Agreement shall be borne directly by the Corporation, including, without limitation, fees and expenses payable in connection with the qualification of the Purchased Shares and the Additional Shares for Distribution, the fees relating to listing of the Purchased Shares and the Additional Shares on any exchange, the translation of the Prospectus into the French language, all fees and disbursements of counsel to the Corporation, local counsel and United States counsel to the Corporation, all fees and expenses of the Corporation's auditors, the fees and expenses relating to the marketing of the Purchased Shares and the Additional Shares (including, without limitation, "road show" consultants, marketing meetings, marketing documentation and institutional investor meetings), all costs incurred in connection with the preparation and printing of the Prospectus, Prospectus Amendments and certificates representing the Purchased Shares and the Additional Shares, the out-of-pocket expenses incurred by the Underwriters in connection with the offering of the Purchased Shares and the Additional Shares and, in the event this Agreement is terminated by the Underwriters as a consequence of a default hereunder by the Corporation, the reasonable fees of counsel to the Underwriters.

16. (a) Obligation of Underwriters to Purchase

Subject to the terms of this Agreement, the obligation of the Underwriters to purchase the Purchased Shares at the Closing Time shall be several and not joint and shall be limited to the percentage of the Purchased Shares set out opposite the name of the Underwriters respectively below:

TD Securities Inc.	45%
CIBC World Markets Inc.	25%
Raymond James Ltd.	20%
Canaccord Capital Corporation	10%

Nothing in this paragraph shall oblige the Corporation to sell to any or all of the Underwriters or the Underwriters to purchase less than all of the Purchased Shares or relieve from liability to the Corporation or the other Underwriters any Underwriter which shall be in default hereunder. Subject to subparagraph 16(b), in the event that any of the Underwriters shall fail to purchase its applicable percentage of the Purchased Shares at the Closing Time, the other Underwriters shall have the right, but shall not be obligated, to purchase on a *pro rata* basis (or such other basis as they may agree) all of the percentage of the Purchased Shares which would otherwise have been purchased by the Underwriter which is in default. In the event that such right is exercised, the non-defaulting Underwriters shall have the right to postpone the Closing Date for not more than three Business Days in order that any changes in the arrangements or documents for the purchase and delivery of the Purchased Shares may be made. In the event that such right is not exercised, the other Underwriters that are not in default shall have no liability to the Corporation if another Underwriter fails to take up and pay for its percentage of the Purchased Shares. In the event of a termination by the Corporation of its obligations under this Agreement, there shall be no further liability on the part of the Corporation to the Underwriters except in respect of any liability which may have arisen or may arise under paragraphs 12, 13 and 15

(b) Rights to Purchase of Other Underwriters

In the event that one or more but not all of the Underwriters shall exercise its or their right of termination under paragraph 11, the other Underwriters shall have the right, but shall not be obligated, to purchase all of the percentage of the Purchased Shares which would otherwise have been purchased by such Underwriter or Underwriters that has or have so exercised its or their right of termination.

(c) Right of Corporation to Terminate

Nothing in this paragraph or paragraph 11 shall oblige the Corporation to sell to the Underwriters less than all of the Purchased Shares.

17. Concurrent Offerings

For a period commencing on the Closing Date to the date 90 days after the Closing Date, the Corporation agrees not to, directly or indirectly, offer to sell, grant any option for the sale of, or otherwise dispose of, or announce any intention to do so, in a public offering or by way of private placement, any securities in its capital except:

(i) pursuant to the exchange, transfer, conversion or exercise of existing outstanding securities or existing commitments to issue securities;

(ii) pursuant to share options or share units issued to directors, officers, and employees and consultants subject to existing board approved incentive programs;

(iii) as payment in full or in part of the purchase price of any business acquisition by the Corporation; and

(iv) to a strategic investor in the context of a private placement,

in each case without the prior written consent of TDSI, on behalf of the Underwriters (which consent shall not be unreasonably withheld, delayed or refused).

18. Survival of Representations and Warranties

The representations, warranties, obligations and agreements of the Corporation contained in this Agreement and in any certificate delivered pursuant to this Agreement or in connection with the purchase and sale of the Purchased Shares and the Additional Shares shall survive the purchase of the Purchased Shares and the Additional Shares and shall continue in full force and effect indefinitely and shall be unaffected by any subsequent disposition of the Purchased Shares and the Additional Shares by the Underwriters or the termination of the Underwriters' obligations and shall not be limited or prejudiced by any investigation made by or on behalf of the Underwriters in connection with the preparation of the Prospectus, any Prospectus Amendment or the distribution of the Purchased Shares.

19. Time of the Essence

Time shall be of the essence of this Agreement.

20. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Ontario and the laws of Canada applicable in Ontario.

21. Funds

All funds referred to in this Agreement shall be in Canadian dollars.

22. Notice

Unless otherwise expressly provided in this Agreement, any notice or other communication to be given under this Agreement (a "**Notice**") shall be in writing addressed as follows:

If to the Corporation, addressed and sent to:

Toromont Industries Ltd.
P.O. Box 5511
3131 Highway 7 West
Concord, Ontario
L4K 1B7

Attention: Robert M. Ogilvie
Fax: (416) 667-5511

with a copy to:

Davies Ward Phillips & Vineberg LLP
1 First Canadian Place
P.O. Box 63
Toronto ON M5X 1B3

Attention: Timothy Moran
Fax: (416) 863-5564

If to TD Securities Inc., addressed and sent to:

TD Securities Inc.
Toronto-Dominion Centre
TD Bank Tower
66 Wellington Street West, 7th Floor
Toronto ON M5K 1A2

Attention: David Ward
Fax: (416) 307-8492

If to CIBC World Markets Inc., addressed and sent to:

CIBC World Markets Inc.
BCE Place, P.O. Box 500
161 Bay Street, 6th Floor
Toronto, ON M5J 2S8

Attention: Danny McCarthy
Fax: (416) 594-7762

If to Raymond James Ltd., addressed and sent to:

Raymond James Ltd.
Scotia Plaza
Suite 5300, P.O. Box 415
40 King Street West
Toronto ON M5H 3Y2

Attention: Roland Cardy
Fax: (416) 777-7050

If to Canaccord Capital Corporation, addressed and sent to:

Canaccord Capital Corporation
P.O. Box 6, Suite 1210
320 Bay Street
Toronto, ON M5H 4A6

Attention: Bradley Griffiths
Fax: (416) 869-3876

in each case with a copy to:

Torys
Suite 3000
Maritime Life Tower
Box 270, TD Centre
Toronto, Ontario
M5K lN2

Attention: Philip J. Brown
Fax: (416) 865-7380

or to such other address as any of the Persons may designate by Notice given to the others.

Each Notice shall be personally delivered to the addressee or sent by fax to the addressee and (i) a Notice which is personally delivered shall, if delivered on a Business Day, be deemed to be given and received on that day and, in any other case, be deemed to be given and received on the first Business Day following the day on which it is delivered; and (ii) a Notice which is sent by fax shall be deemed to be given and received on the first Business Day following the day on which it is sent.

23. Entire Agreement

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether verbal or written, including the engagement letter dated May 23, 2001.

24. Press Releases

The Corporation shall provide TDSI with a copy of all press releases to be issued by the Corporation concerning the offering contemplated hereby prior to the issuance thereof, and shall give TDSI an opportunity to provide comments on any such press release.

25. Authority of TDSI

TD Securities Inc., is hereby authorized by CIBC World Markets Inc., Raymond James Ltd. and Canaccord Capital Corporation to act on their behalf and the Corporation shall be entitled to and shall act on any Notice given in accordance with paragraph 22 or agreement entered into by or on behalf of the Underwriters by TDSI, which represents and warrants that it has irrevocable authority to bind the Underwriters, except in respect of any consent to an omission of liability or a settlement pursuant to subparagraph 12(c) which consent shall be given by the Indemnified Party or other parties, a notice of termination pursuant to paragraph 11 which notice may be given by any of the Underwriters, or any waiver pursuant to subparagraph 11(d), which waiver must be signed by all of the Underwriters. TDSI shall consult with the other Underwriters concerning any matter in respect of which it acts as representative of the Underwriters.

26. Counterparts

This Agreement may be executed by any one or more of the parties to this Agreement in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same instrument.

If the foregoing is in accordance with your understanding and is agreed to by you, please signify your acceptance by executing the enclosed copies of this letter where indicated below and returning the same to TDSI upon which this letter as so accepted shall constitute an agreement among us.

Yours very truly,

TD SECURITIES INC.

Per: (signed) David Ward
Name: David Ward
Title: Vice Chairman

CIBC WORLD MARKETS INC.

Per: (signed) Daniel J. McCarthy
Name: Daniel J. McCarthy
Title: Managing Director

RAYMOND JAMES LTD.

Per: (signed) Roland Cardy
Name: Roland A. Cardy
Title: Senior Managing Director

CANACCORD CAPITAL CORPORATION

Per: (signed) Bradley Griffiths
Name: Bradley Griffiths
Title: Co-Chairman

The foregoing offer is accepted and agreed to as of the date first above written.

TORONTO INDUSTRIES LTD.

Per: (signed) Robert M. Ogilvie
Robert M. Ogilvie
Chairman and Chief Executive Officer

SCHEDULE "A"

UNITED STATES OFFERS AND SALES

As used in this Schedule A, capitalized terms used herein and not defined herein shall have the meanings ascribed thereto in the underwriting agreement to which this Schedule is annexed and the following terms shall have the meanings indicated:

(a) "1933 Act" means the United States Securities Act of 1933, as amended;

(b) "1934 Act" means the United States Securities Exchange Act of 1934, as amended;

(c) "Directed Selling Efforts" means directed selling efforts as that term is defined in Regulation S. Without limiting the foregoing, but for greater clarity in this Schedule, it means, subject to the exclusions from the definition of directed selling efforts contained in Regulation S, any activity undertaken for the purpose of, or that could reasonably be expected to have the effect of, conditioning the market in the United States for any of the Shares and includes the placement of any advertisement in a publication with a general circulation in the United States that refers to the offering of the Shares;

(d) "Qualified Institutional Buyer" means a qualified institutional buyer as that term is defined in Rule 144A;

(e) "Regulation D" means Regulation D adopted by the SEC under the 1933 Act;

(f) "Regulation S" means Regulation S adopted by the SEC under the 1933 Act;

(g) "Rule 144A" means Rule 144A adopted by the SEC under the 1933 Act;

(h) "SEC" means the United States Securities and Exchange Commission;

(i) "Shares" means the Purchased Shares and the Additional Shares;

(j) "Substantial U.S. Market Interest" means substantial U.S. market interest as that term is defined in Regulation S;

(k) "U.S. Person" means a U.S. person as that term is defined in Regulation S;

(l) "United States" means the United States of America, its territories and possessions, any state of the United States, and the District of Columbia.

<u>Representations, Warranties and Covenants of the Underwriters</u>

Each Underwriter acknowledges that the Shares have not been and will not be registered under the 1933 Act and may be offered and sold only in transactions exempt from or not subject to the registration requirements of the 1933 Act. Accordingly, neither the Underwriter nor any of its affiliates, nor any person acting on their behalf, has made or will make any Directed Selling Efforts in the United States with respect to the Shares.

Each Underwriter represents and agrees to and with the Corporation that:

1. It has not offered and sold, and will not offer and sell, any Shares forming part of its allotment except (a) in an offshore transaction in accordance with Rule 903 of Regulation S or (b) in the United States in accordance with Rule 144A as provided in paragraphs 2 through 8 below.

2. It has not entered and will not enter into any contractual arrangement with respect to the distribution of the Shares, except with its affiliates, any Selling Firm or with the prior written consent of the Corporation. It shall require each Selling Firm to agree, for the benefit of the Corporation, to comply with, and shall use its best efforts to ensure that each Selling Firm complies with, the same provisions of this Schedule as apply to such Underwriter as if such provisions applied to such Selling Firm.

3. All offers and sales of Shares in the United States shall be made through the Underwriter's U.S. registered broker-dealer affiliate in compliance with all applicable U.S. broker-dealer requirements. In the event any such broker-dealer affiliate holds the Common Shares for re-sale, such broker-dealer shall be a Qualified Institutional Buyer and if it does not have such status, it shall effect any U.S. offers and sales in riskless principal transactions on behalf of a Qualified Institutional Buyer, or as an agent, on a non-discretionary basis, in a transaction with a Qualified Institutional Buyer.

4. Offers and sales of Shares in the United States shall not be made by any form of general solicitation or general advertising (as those terms are used in Regulation D) or in any manner involving a public offering within the meaning of Section 4(2) of the 1933 Act.

5. Offers to sell and solicitations of offers to buy the Shares shall be made in accordance with Rule 144A only to persons reasonably believed to be Qualified Institutional Buyers.

6. All purchasers of the Shares in the United States shall be informed that the Shares have not been and will not be registered under the 1933 Act and are being offered and sold to such purchasers in reliance on the exemption from the registration requirements of the 1933 Act provided by Rule 144A thereunder.

7. Each offeree in the United States shall be provided with a U.S. offering memorandum (the "U.S. Offering Memorandum") including the Preliminary Prospectus and/or the Prospectus, and each purchaser will have received at or prior to the time of purchase of any Shares the U.S. Offering

Memorandum including the Final Prospectus. The U.S. Offering Memorandum shall be in substantially the form set forth as Exhibit A to this Schedule.

8. Any offer, sale or solicitation of an offer to buy Shares that has been made or will be made in the United States was or will be made only to Qualified Institutional Buyers in transactions that are exempt from registration under applicable state securities laws.

9. At closing, it, together with its U.S. affiliate selling Shares in the United States, will provide a certificate, substantially in the form of Exhibit B to this Schedule relating to the manner of the offer and sale of the Shares in the United States.

Representations, Warranties and Covenants of the Corporation

The Corporation represents, warrants, covenants and agrees that:

1. (a) The Corporation is a "foreign issuer" within the meaning of Regulation S and reasonably believes that there is no Substantial U.S. Market Interest in the Shares; (b) the Corporation is not an open-end investment company, unit investment trust or face-amount certificate company that is or is required to be registered under Section 8 of the United States Investment Company Act of 1940, as amended; (c) none of the Corporation, any of its affiliates, or any person acting on their behalf has made or will make any Directed Selling Efforts in the United States, or has engaged or will engage in any form of general solicitation or general advertising (as those terms are used in Regulation D) in connection with the offer or sale of the Shares in the United States; and (d) the Shares are not, and as of the Time of Closing will not be, and no securities of the same class as the Shares are or will be, (i) listed on a national securities exchange in the United States registered under Section 6 of the U.S. Exchange Act, (ii) quoted in an "automated inter-dealer quotation system", as such term is used in the U.S. Exchange Act, or (iii) convertible or exchangeable at an effective conversion premium (calculated as specified in paragraph (a)(6) of Rule 144A) of less than ten percent for securities so listed or quoted.

2. For so long as any of the Shares are outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the 1933 Act, and if the Corporation is not subject to and in compliance with the reporting requirements of Section 13 or Section 15(d) of the U.S. Exchange Act or exempt from such reporting requirements pursuant to Rule 12g3-2(b) thereunder, the Corporation will provide to any holder of such Shares, or to any prospective purchaser of such Shares designated by such holder, upon the request of such holder or prospective purchaser, at or prior to the time of resale, the information required to be provided by Rule 144A(d)(4).

EXHIBIT A TO SCHEDULE A

EXHIBIT B TO SCHEDULE A

UNDERWRITERS’ CERTIFICATE

In connection with the private placement in the United States of the Common Shares (the "Shares") of Toromont Industries Ltd. (the "Corporation") pursuant to the Underwriting Agreement dated May 25, 2001 among the Corporation and the Underwriters named therein (the "Underwriting Agreement"), each of the undersigned does hereby certify as follows:

(i) **[U.S. broker-dealer affiliate]** is a duly registered broker or dealer with the United States Securities and Exchange Commission and is a member of and is in good standing with the National Association of Securities Dealers, Inc. on the date hereof;

(ii) each offeree was provided with a copy of the U.S. Offering Memorandum, including the Canadian final prospectus dated ■, 2001 for the offering of the Shares in the United States;

(iii) immediately prior to transmitting such U.S. Offering Memorandum to such offerees, we had reasonable grounds to believe and did believe that each offeree was a Qualified Institutional Buyer (as defined in Rule 144A under the Securities Act of 1933, as amended (the "1933 Act")) and, on the date hereof, we continue to believe that each U.S. person purchasing Shares from us is a Qualified Institutional Buyer;

(iv) no form of general solicitation or general advertising (as those terms are used in Regulation D under the 1933 Act) was used by us, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio or television, or any seminar or meeting whose attendees had been invited by general solicitation or general advertising, in connection with the offer or sale of the Shares in the United States; and

(v) the offering of the Shares in the United States has been conducted by us in accordance with the terms of the Underwriting Agreement.

Terms used in this certificate have the meanings given to them in the Underwriting Agreement unless otherwise defined herein.

DATED this day of , .

[NAME OF UNDERWRITER]	**[NAME OF U.S. BROKER-DEALER AFFILIATE]**
By: ______________________	**By:** ______________________
■	■