EXECUTION COPY

LOAN AGREEMENT

THIS AGREEMENT made as of the 15th day of December, 2003.

BETWEEN:

CONTRANS HOLDING LIMITED PARTNERSHIP

(hereinafter called the **"Borrower"**)

OF THE FIRST PART

AND:

FIRST TREASURY FINANCIAL INC.,

(hereinafter called the **"Lender"**)

OF THE SECOND PART

AND:

CONTRANS INCOME FUND
CONTRANS OPERATING TRUST
CONTRANS CORP.
LAIDLAW CARRIERS PCS LP
LAIDLAW CARRIERS BULK LP
LAIDLAW CARRIERS TANK LP
LAIDLAW CARRIERS FLATBED LP
LAIDLAW CARRIERS VAN LP
TRI-LINE FREIGHT SYSTEMS LP
BROOKVILLE CARRIERS VAN LIMITED PARTNERSHIP
BROOKVILLE CARRIERS FLATBED LIMITED PARTNERSHIP
GLEN TAY TRANSPORTATION LP
NORTHSTAR PASSENGER SERVICES LP
FILLION TRANSPORT INC.

(hereinafter collectively and individually called the **"Guarantor"**)

OF THE THIRD PART

WHEREAS the Lender has agreed to lend money to the Borrower subject to the terms and conditions of this Agreement and each of the Guarantors has agreed to guarantee the obligations of the Borrower to the Lender;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the covenants and agreements herein contained and for other good and valuable consideration (the receipt and adequacy whereof is hereby acknowledged) the parties hereto agree as follows:

ARTICLE 1.00 - MISCELLANEOUS

1.1 **Formal Date**

For the purpose of convenience this Agreement may be referred to as bearing the formal date of the 15th day of December, 2003, irrespective of the actual date of execution thereof.

1.2 **Definitions**

For the purposes of this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the following meanings and words defined elsewhere in this Agreement shall have the meaning ascribed to them therein:

(a) **"Accelerated Amounts"** means the premium set forth in section 3.11;

(b) **"Additional Debt"** means Debt, other than Debt relating to Purchase Money Mortgages, in addition to the Loan owing by the Borrower, and for greater certainty, includes the Real Property Additional Debt;

(c) **"Additional Debt Prepayment Percentage"** shall mean, in respect of any lender, the quotient obtained from: (a) at the time of determination, the amount of principal repayment or prepayment on any Additional Debt (other than Real Property Additional Debt) to such lender, as numerator; and (b) at the time of determination, the total amount of all Additional Debt (other than Real Property Additional Debt, but including the amount of principal repayment or prepayment set out in the immediately preceding subparagraph (a)) then owing, as denominator;

(d) **"Advances"** means collectively all those advances of monies made by the Lender to the Borrower under this Agreement, and **"Advance"** means any one of such Advances;

(e) **"Applicable Canada Bond"** means with respect to a prepayment of an Advance the non-callable Government of Canada bond denominated in Cdn. currency determined by the Lender as having a remaining term to maturity closest to the remaining term to maturity of the Advance in respect of which the prepayment is to be made;

(f) **"Applicable Canada Bond Yield"** means with respect to the prepayment of an Advance, the arithmetic average (rounded to the nearest 1/100th of 1%) of the respective percentages determined by the Lender, calculated in accordance with the generally accepted financial practices, assuming semi-annual compounding, to be the yield to maturity, expressed as an annual rate of interest, on the Applicable Canada Bond for the 3 business days immediately preceding the date of such prepayment;

(g) **"business day"** means a day other than Saturday, Sunday or a statutory holiday, or any other day upon which the Lender is not open for the transaction of business throughout normal business hours, at its principal office, in the City of Toronto;

(h) **"Change in Control"** means Contrans Income Fund, Contrans Operating Trust and Contrans Corp. ceases to control, directly or indirectly, the Borrower or any of the general partners of the Guarantors, as the case may be;

(i) **"Closing"** means the date of first Advance after satisfaction of all conditions precedent, delivery of this Agreement and the Security;

(j) **"control"** and **"controlled"** shall have the same meaning as defined in the *Business Corporations Act* (Ontario), and **"controlling"** shall have a comparable meaning;

(k) **"Corporate Distribution"** means:

(i) the purchase, redemption or retirement, by the Borrower or a Guarantor, of any interest in their capital;

(ii) the payment by the Borrower or a Guarantor of any management fee, consulting fee, dividend, bonus or any other payment or distribution to unitholders, shareholders, directors, officers or other related persons other than normal remuneration payable by the Borrower or any Guarantor in the ordinary course to Contrans Corp.; and

(iii) any payment by the Borrower or any Guarantor on account of: (1) any principal or interest on any loans or advances owing at any time to unitholders, shareholders, directors, officers or other related person; and (2) any subordinated loans,

other than any such advance or payment among the Borrower and Guarantors, provided in such case of payment or advance that the Lender has a first-ranking security interest in all of the assets of the Borrower and such Guarantors subject only to Permitted Encumbrances;

(l) **"Debt"** means, for any person, on a consolidated basis, (i) all indebtedness of such person for borrowed money, including borrowings by way of bankers' acceptances or letters of credit and contingent reimbursement obligations including letters of guarantee and the maximum amount of all such Debt which is directly or indirectly guaranteed by such person (contingently or otherwise) (eliminating from such calculation where it is duplicative of another person's debt, any guarantee by such person of another person's obligations); (ii) preferred shares classified as debt according to GAAP; (iii) obligations issued or assumed in connection with the acquisition of property in respect of the deferred purchase price of such property; (iv) capital lease obligations and obligations secured by Purchase Money Mortgages; and (v) contingent liabilities in respect of borrowed money and excluding, in any event (a) trade accounts payable, current taxes payable, dividends payable and accrued interest payable, and (b) future taxes;

(m) **"Default"** means an event which, with the giving of notice or the passage of time or the making of any determination or any combination thereof for herein could become an Event of Default;

(n) **"Environmental Laws"** means all applicable laws, by-laws, regulations relating in full or in part to the protection of the natural environment, including the storage, use, generation, handling, manufacture, processing, treatment, release and disposal of "hazardous substances", "contaminants" and "industrial waste" as defined in the applicable Environmental Protection Act;

(o) **"Event of Default"** means any of the events described in Section 6.1;

(p) **"generally accepted accounting principles"** (**"GAAP"**) means the accounting principles recommended by the Canadian Institute of Chartered Accountants as provided in the "CICA Handbook", as the same may be amended, replaced or restated from time to time;

(q) **"Government of Canada Bond Yield"** means as the Applicable Canada Bond Yield is defined at the stated time of determination.

(r) **"Governmental Authorities"** means (i) any government or political subdivision thereof whether foreign or domestic, national, provincial, state, county, municipal or regional having jurisdiction in the relevant circumstances; (ii) any agency or instrumentality of any such government, political subdivision or other government entity (including any central bank or comparable agency); (iii) any court, arbitral tribunal or arbitrator; and (iv) any non-government regulating body, to the extent that the rules, regulations or orders of such body have the force of law;

(s) **"Guarantees"** means the agreement of guarantee provided by each Guarantor to the Lender with regard to the obligations of the Borrower under this Agreement;

(t) **"Guarantor"** means each of Contrans Income Fund, Contrans Operating Trust, Contrans Corp., Laidlaw Carriers PCS LP, Laidlaw Carriers Bulk LP, Laidlaw Carriers Tank LP, Laidlaw Carriers Flatbed LP, Laidlaw Carriers Van LP, Tri-Line Freight Systems LP, Brookville Carriers Van Limited Partnership, Brookville Carriers Flatbed Limited Partnership, Glen Tay Transportation LP, Northstar Passenger Services LP and Fillion Transport Inc., and such other entities as may be added from time to time pursuant to the terms hereof, each in its capacity as guarantor of the obligations of the Borrower under this Agreement, on a joint and on a several basis;

(u) **"Indebtedness"** means and includes all principal, interest, interest on overdue interest and premium, costs and expenses payable by the Borrower pursuant to the provisions of this Agreement and the Security, from time to time outstanding, and all other monies for the time being and from time to time owing by the Borrower to the Lender;

(v) **"Interest Rate Differential"** means the premium equal to the difference between (i) the present value of the Loan interest and the principal payments foregone discounted at the Government of Canada Bond Yield, (on a compounded monthly equivalent basis) as determined by the Lender, for the term from the date of prepayment to the date of original maturity; and (ii) the face value of the principal amount being prepaid at the date of prepayment;

(w) **"Lapsing Date"** means December 31, 2003;

(x) **"Lender Reserve Amount"** shall have the meaning ascribed thereto in section 5.1(z);

(y) **"Lender Rolling Stock"** means the Rolling Stock to which the Lender has a first-ranking security interest;

(z) **"Loan"** means the principal amount advanced pursuant to this Agreement from time to time;

(aa) **"Loan Documents"** means this Agreement and the Security;

(bb) **"Maintenance Capital Expenditures"** means, for any fiscal period, capital expenditures made for the purposes of replacing or substituting capital assets in order to sustain the person's level of operations for the relevant fiscal period;

(cc) **"Material Adverse Effect"** means a material adverse effect on (a) the business, operations, or property or financial or other condition of a person which would negatively affect the ability of that person to perform and discharge its obligations

under this Agreement or any of the Security, (b) the collateral covered by the Security, the Lender's liens on such collateral or the priority of such liens, or (c) the Lender's ability to enforce its rights or remedies under this Agreement or any of the Security;

(dd) **"Mortgaged Property"** means and includes all the undertaking, property and assets of the Borrower and the Guarantor subject to the Security;

(ee) **"Obligors"** means, collectively, the Borrower and the Guarantors;

(ff) **"Permitted Encumbrances"** means any one or more of the following:

(i) liens for taxes, assessments, governmental charges or levies not at the time due and delinquent, or the validity of which is being contested by the Borrower or a Guarantor in good faith and by proper legal proceedings which effectively postpone enforcement of any such lien;

(ii) the lien of any judgment rendered or claim filed against the Borrower or a Guarantor which the Borrower or such Guarantor shall be contesting in good faith by proper legal proceedings, and provided such proceedings effectively postpone enforcement of any such lien;

(iii) the reservations, limitations, provisos and conditions, if any, expressed in any original grants from the Crown, registered easements, or statutory exceptions to title, which do not, in the opinion of counsel for the Lender, impair the use or materially affect the marketability of the property;

(iv) liens or rights of distress reserved in, or exercisable under, any lease (other than capital leases) for rent, or for compliance with the terms of such lease;

(v) Inchoate or statutory liens of contractors, subcontractors, mechanics, workers, suppliers, materialmen, carriers and others in respect of construction, maintenance, repair or operation of assets of the Borrower or a Guarantor, provided that such liens are related to obligations not due or delinquent are not registered against title to any assets of the Borrower or such Guarantor and in respect of which adequate holdbacks are being maintained as required by applicable law or such liens are being contested in good faith by appropriate proceedings and in respect of which there has been set aside a reserve (segregated to the extent required by GAAP) in an adequate amount and provided further that such liens do not, in the Lender's opinion reduce the value of the assets of the Borrower or a Guarantor or materially interfere with the use of such assets in the operation of the business of the Borrower or such Guarantor;

(vi) Easements, rights-of-way, servitudes, restrictions and similar rights in real property comprised in the assets of the Borrower or a Guarantor or interests therein granted or reserved to other persons, provided that such rights do not, in the Lender's opinion, reduce the value of the assets of the Borrower or such Guarantor or materially interfere with the use of such assets in the operation of the business of the Borrower or such Guarantor;

(vii) Title defects or irregularities which are of a minor nature and which, in the Lender's opinion, do not reduce the value of the assets of the Borrower or a

Guarantor or materially interfere with their use in the operation of the business of the Borrower or any Guarantor;

(vii) liens securing appeal bonds and other similar liens arising in connection with court proceedings (including, without limitation, surety bonds, security for costs of litigation where required by law and letters of credit) or any other instruments serving a similar purpose;

(ix) Liens given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the operation of the business or the ownership of the assets of the Borrower or the Guarantor, provided that such Liens do not, in the Lender's opinion, reduce the value of the assets of the Borrower or any Guarantor or materially interfere with their use in the operation of the business of the Borrower or such Guarantor;

(x) Servicing agreements, development agreements, site plan agreements, and other agreements with Governmental Entities pertaining to the use or development of any of the assets of the Borrower or any Guarantor, provided same are complied with and do not, in the Lender's opinion, reduce the value of the assets of the Borrower or such Guarantor or materially interfere with their use in the operation of the business of the Borrower or such Guarantor including, without limitation, any obligations to deliver letters of credit and other security as required;

(xi) Applicable municipal and other governmental restrictions, including municipal by-laws and regulations, affecting the use of land or the nature of any structures which may be erected thereon, provided such restrictions have been complied with and do not, in the Lender's opinion, reduce the value of the assets of the Borrower or any Guarantor or materially interfere with their use in the operation of the business of the Borrower or such Guarantor;

(xii) The right reserved to or vested in any Governmental Entity by any statutory provision or by the terms of any lease, licence, franchise, grant or permit of the Borrower or a Guarantor, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;

(xiii) Liens in favour of the Lender created by the Security;

(xiv) Purchase Money Mortgages made for purposes of acquisition of new assets and for growth (which for greater certainty excludes Maintenance Capital Expenditures) provided before and after the incurring of such debt the Borrower is not in Default and hereunder;

(xv) the Bank Security as defined in section 5.2(k);

(xvi) Liens disclosed in **Schedule "A"**;

(xvii) Liens which would comprise Purchase Money Mortgages where such are assumed as a consequence of an acquisition of a business or entity, as permitted hereunder; and

(xviii) Liens relating to Additional Debt permitted hereunder;

(gg) **"person"** includes an individual, a partnership, a joint venture, a trust, an unincorporated organization or any other association, a corporation and a government or any department or agency thereof;

(hh) **"Priorities Agreement"** means a priorities agreement entered or to be entered into among the Lender, Royal Bank of Canada and the Obligors, a copy of which or the form of which is attached hereto as Schedule "E";

(ii) **"Purchase Money Mortgages"** means any security interest charging property acquired, which is granted or assumed or which arises by operation of law in favour of the transferor concurrently with and for the purpose of the acquisition of such property, in each case where (i) the principal amount secured by the security interest is not in excess of the purchase price (after any post-closing adjustment) of the property acquired, and (ii) such security interest extends only to the property acquired and its proceeds, including capital leases;

(jj) **"Real Property Additional Debt"** shall have the meaning ascribed to such term in Section 5.1(z);

(kk) **"Rolling Stock"** shall mean, in respect of all of the Obligors, all of their respective vehicles, buses, tractors and trailers;

(ll) **"Security"** means the Security Agreements, the Guarantee, the Assignment of Insurance, Hypothec and any other instrument or agreement which purports to secure the Indebtedness provided in accordance with the terms of this Agreement;

(mm) **"Security Agreements"** means the general security agreements issued by the Borrower and each Guarantor to the Lender and dated as of the 15th day of December, 2003;

(nn) **"Subsidiary"** of a person means (a) any corporation of which the person and/or any one of its affiliates (as defined in the *Business Corporations Act* (Ontario)) holds, directly or indirectly, other than by way of security only, securities to which are attached more than 50% of the votes that may be cast to elect directors of such corporation, (b) any corporation of which the person and/or any one of its affiliates has, through operation of law or otherwise, the ability to elect or cause the election of a majority of the directors of such corporation, (c) any partnership, limited liability company, unlimited liability company or joint venture in which such person and/or one or more of its affiliates has, directly or indirectly, more than 50% of the votes that may be cast to elect the governing body of such entity or otherwise control its activity, and (d) any partnership, limited liability company, unlimited liability company or joint venture in which such person and/or one or more of its affiliates has, through operation of law or otherwise, the ability to elect or cause the election of a majority of the members of the governing body of such entity or otherwise control its activity; and

(oo) **"this Agreement"**, **"hereto"**, **"herein"**, **"hereof"**, **"hereby"**, **"hereunder"** and similar expressions refer to this Loan Agreement and not to any particular section or other portion hereof, and include any and every instrument supplemental or ancillary hereto, or in implement hereof, and the expressions **"article"** or **"section"** followed by a number mean and refer to the specified article or section of this Agreement.

1.3 **Plurality and Gender, etc.**

Words importing the singular number shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender.

1.4 **Headings**

The Article and section headings are not to be considered part of this Agreement, are inserted for convenience of reference only, are not intended to be full or accurate descriptions of the content thereof, and shall not affect the construction or interpretation of this Agreement.

1.5 **Law Applicable**

This Agreement shall be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

1.6 **Currency**

All dollar amounts referred to in this Agreement, and all payments to be made hereunder, are in Canadian Dollars. All dollar amounts referred to in this Agreement are expressed in Canadian Dollars.

1.7 **Entire Agreement**

This Agreement, including the schedules hereto, the Security, and any agreement collateral hereto or thereto constitutes the entire agreement between the parties, and may not be amended or modified in any respect except by written instrument signed by the parties hereto, and all other agreements, undertakings, representations and writings, oral or written, are entirely replaced thereby and are no longer effective.

1.8 **Successor Legislation**

Any statute referred to herein or in the Security shall be deemed to include that statute as amended, restated and/or replaced from time to time, and any successor legislation to the same general intent and effect.

1.9 **Assignment**

This Agreement shall enure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and permitted assigns. This Agreement may be assigned by the Lender, prior to an Event of Default with the prior written consent of the Borrower, not to be unreasonably withheld, except as to an assignment under section 7.9 for which no consent is required, and no consent of the Borrower or Guarantor will be required after the occurrence of an Event of Default which is continuing, in which event the Borrower and the Guarantor shall attorn in all respects to such assignment and the assignee thereof. Neither the Borrower nor any Guarantor may assign this Agreement without the consent of the Lender.

1.10 **Business Day**

If under the provisions of this Agreement any amount is to be paid or any act or thing is to be done or step is to be taken on a day other than a business day, then such amount shall be paid or such act, thing or step shall be done or taken on the next business day.

1.11 **Severability**

In the event that any one or more provisions contained in this Agreement, the Security, or any other agreement required hereunder to be delivered to the Lender, shall be invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions hereof or of the security shall not be affected or impaired thereby. The Parties shall engage in good faith discussions to replace any provision that is deemed to be invalid, illegal or unenforceable with a valid, legal and enforceable provision, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision.

1.12 **Application of GAAP**

All financial statements herein shall, unless otherwise provided, be interpreted in accordance with generally accepted accounting principles, consistently applied, on a consolidated basis.

1.13 **Execution**

This Agreement may be executed in one or more counterparts, each of which when so executed shall constitute an original and all of which together shall constitute one and the same Agreement.

1.14 **Schedules**

The following schedules are incorporated herein and form part of this Agreement.

Schedule "A"	-	Permitted Encumbrances
Schedule "B"	-	Actions
Schedule "C"	-	Location of Assets and Chief Executive Offices
Schedule "D"	-	Corporate Chart with Debt
Schedule "E"	-	Priorities Agreement

1.15 **Financial Terms and Accounting Rules**

All financial terms employed and calculations provided for herein shall, unless otherwise specifically provided, be interpreted and applied in accordance with generally accepted accounting principles applied on a consistent basis, and applicable on both a consolidated, or combined, if appropriate, and unconsolidated basis.

1.16 **Conflict**

In the event of any conflict between any term, condition or provision of this Agreement and those of the Security, or of any other agreement to be delivered to the Lender hereunder, then the term, condition or provision of this Agreement shall govern.

ARTICLE 2.00 - REPRESENTATIONS AND WARRANTIES

2.1 **Representations and Warranties**

Each of the Borrower and each Guarantor jointly and severally represents and warrants to the Lender, and acknowledges that the Lender is relying on such representations and warranties in entering into this Agreement and in making Advances hereunder, as follows:

(a) **Status**

If a corporation, it has been duly incorporated or created and organized and is a validly existing corporation, under the laws of its governing jurisdiction, and has full capacity and power to carry on its business as presently conducted and to own or lease property and holds all necessary material licences, permits and consents to carry on such business in all jurisdictions in which it does so, all of which is outlined in **Schedule "C"** hereto;

If a trust, it is duly established and validly existing as a trust and its trustee, if a corporation, has the corporate power and authority to own or lease the trust's property and to carry on the business of the trust as presently constituted;

If a limited partnership, is a duly formed and validly existing limited partnership and its general partners have the corporate authority and power to own and lease its property and to carry on its business as presently constituted, and each general partner thereof is a corporation, it has been duly incorporated or created and organized and is a validly existing corporation, under the laws of its governing jurisdiction, and has full capacity and power to carry on its business as presently conducted and to own or lease property and holds all necessary material licences, permits and consents to carry on such business in all jurisdictions in which it does so, all of which is outlined in **Schedule "C"** hereto;

(b) **Power and Authority**

It has the power to enter into, execute, deliver and perform this Agreement and the Security and, in the case of the Borrower, is duly authorized to borrow the monies herein contemplated;

(c) **Non-Violation of Other Instruments and Authorization**

(i) The borrowing of money by the Borrower, the entering into and performance of this Agreement, the Security and any other agreement collateral hereto or thereto by the Borrower and each Guarantor, and the issue of the Security to which it is a party to be given hereunder does not conflict, and will not conflict with, and does not result, and will not result with the passage of time or otherwise, in a breach or violation of, or constitute a default under, its articles of incorporation or its by-laws, or any of the covenants or the provisions contained in any agreement to which it is a party, or by which it or its assets are subject; and

(ii) All necessary steps and proceedings have been taken, and all consents have been obtained to authorize the entering into, delivery and performance of this Agreement and to create and authorize the issuance, delivery and performance of the Security;

(d) **Valid Security**

This Agreement and the Security create in favour of the Lender valid and binding and perfected (when registered) obligations of it, to the extent it is a party thereto on all of its respective right, title and interest in and to all of the collateral which is the subject matter of the Security enforceable against it in accordance with their respective terms subject to applicable bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and to equitable remedies that

may be granted only in the discretion of a court of competent jurisdiction. In order to ensure the legality, validity, binding effect, enforceability and priority of the Loan Documents, it is not necessary or advisable under the laws of any jurisdiction where it carries on business to publish or record in any public office or any other place any document or paper in respect of the Loan Documents, except the Security, which requires registration under applicable *Personal Property Security Act* or Civil Code (Quebec) registration systems;

(e) **Title to Assets and Property**

It has good and marketable title to the real properties and good title to the personal properties owned by it, free and clear of encumbrances or security interests except for Permitted Encumbrances and no person has any agreement or right to acquire such properties out of the ordinary course of business;

(f) **No Default**

It is not in default in the performance or observance of any of the obligations, covenants or conditions contained in any material contract, agreement or other instrument to which it is a party or by which it is bound;

(g) **Financial Condition**

Since the date of the audited, consolidated, financial statements of Contrans Income Fund, dated as at December 31, 2002, there has occurred no material adverse change affecting its business or financial condition;

(h) **Financial Information**

All balance sheets, earnings statements and other financial data of the Borrower and Guarantors which have been delivered to the Lender are true and correct in all material respects as of the respective dates thereof, have been prepared in accordance with generally accepted accounting principles consistently applied, and do fairly present the financial position and condition of the Borrower and Guarantors as of the respective dates thereof, and all other information, certificates, schedules, reports and other papers and data which have been furnished by the Borrower to the Lender are complete, accurate and correct in all material respects at the time the same were furnished subject, in the case of interim statements, to usual year end adjustments;

(i) **No Actions**

Except as disclosed in **Schedule "B"**, there are no actions, suits, judicial or arbitral proceedings pending or to its knowledge threatened against it in any court or before any other authority which could reasonably be expected to result in any material adverse change in its business or financial condition, or which could reasonably be expected to materially adversely affect the ownership, status or use of the Mortgaged Property;

(j) **Judgments and Executions**

There are no judgments or executions filed or pending against it;

(k) **Insolvency Proceedings**

It has not made any assignment for the benefit of creditors, nor has any receiving order been made against it under the provisions of the *Bankruptcy and Insolvency Act*, nor has any petition for such an order been served upon it, nor are there any proceedings in effect or threatened under the provisions of the *Winding-Up and Restructuring Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada), nor has any receiver, receiver and manager, monitor, custodian or official with similar powers been appointed by court order or privately respecting it or any of its assets or property; nor has it committed an act of bankruptcy; taken advantage of any act for bankrupt or insolvent debtors; filed a notice of intention to make a proposal or a proposal under the *Bankruptcy and Insolvency Act* (Canada); proposed a compromise or arrangement of its creditors generally, made any assignment for the benefit of creditors, taken any proceedings with respect to a compromise or arrangement, nor to have a receiver appointed over any part of its assets or property;

(l) **Leases**

It is in good standing under all leases to which it is a party, and no right currently exists in any lessor or lessee thereunder to terminate any such lease, and each such lease is its valid and binding obligation;

(m) **Taxation Procedures**

It has duly and timely filed all tax returns required to be filed by it, and it has paid all taxes which are due and payable, and has paid all assessments and reassessments, and all other taxes, penalties, interest and fines claimed against it which are due or payable by it on or before the date due and payable other than those: (i) in respect of which liability based on such returns is being contested in good faith and by appropriate proceedings where adequate reserves have been established in accordance with GAAP; and (ii) the effect of such proceedings is to stay any lien, charge or seizure of property. Adequate provision and installment payments have been made for taxes and governmental royalties payable for the current period for which returns are not yet required to be filed. Except as disclosed in writing to the Lender, as at the date hereof there are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any tax return, or payment of any taxes, or deficiency;

(n) **Employee Payments**

It has withheld from each payment to any of its officers, directors and employees the amount of all taxes, including but not limited to, income tax and other deductions required to be withheld therefrom, and has paid the same to the proper tax or other receiving officers within the time required under any applicable tax legislation. Except as set out in **Schedule "B"** hereto, it is not subject to any claim by its employees arising from salary or benefits which have not been paid when due, all such salary and benefits being paid to date, except where such claims would not have a Material Adverse Effect on it;

(o) **Ownership or Licence**

It owns or licenses all patents, industrial designs, trade-marks, trade secrets, know-how, environmental technology, biotechnology, confidential information, trade-names, goodwill, copyrights, integrated circuit topographies, software and all other

forms of intellectual and industrial property, and any registrations and applications for registration of any of the foregoing (collectively, the **"Intellectual Property"**), necessary for the conduct of its business and all such licenses are in good standings;

(p) **Subsidiaries**

The corporate chart appended hereto as **Schedule "D"** is true and correct on the date hereof.

(q) **Contingent Liabilities and Debt.**

It has disclosed all contingent liabilities as at the date hereof in the most recent audited annual financial statements furnished to the Lender to the extent such liabilities are required to be disclosed in accordance with GAAP other than such contingent liabilities incurred in the ordinary course of business since such date, and as at the date hereof it has not incurred any Debt which is not disclosed on or reflected in those financial statements or otherwise disclosed to the Lender in writing, other than Debt or contingent liabilities incurred by it or credit extended to it in the ordinary course of business.

(r) **Location of Assets, Places of Business**.

The location of all of its tangible and intangible property and assets and places of business is set out in **Schedule "C "**. Its registered and chief executive offices are set out in **Schedule "C"**.

(s) **No Default or Event of Default**.

There exists no Default or Event of Default.

(t) **Compliance**

It is in compliance with its constating documents and is in compliance in all material respects with all applicable laws, including health, safety and employment standards, transportation, customs, labour codes and Environmental Laws.

(u) **Canadian Pension and Benefit Plans**

All of its material obligations (including fiduciary, funding, investment and administration obligations) required to be performed in connection with its pension plans and the funding agreements therefor have been performed in a timely fashion. There have been no improper withdrawals or applications of the assets of its pension plans or its benefit plans. There is no proceeding, action, suit or claim (other than routine claims for benefits) pending or threatened involving its pension plans or its benefit plans, and no facts exist which could reasonably be expected to give rise to that type of proceeding, action, suit or claim which would have a material adverse effect on its business or financial status. Any pension plan is fully funded both on an ongoing basis and on a winding-up basis (using actuarial methods and assumptions which are consistent with the valuations last filed with the applicable Governmental Authorities and which are consistent with GAAP). It does not have any pension or benefit plans other than Canadian pension plans and Canadian benefit plans, if any at all.

(v) **Labour Matters**

There are no strikes or other labour disputes against it that are pending or, to its knowledge, threatened, other than employee instituted decertification processes. All payment due from it on account of employee insurance and vacation pay have been paid or accrued as a liability on its books which would have a material adverse effect on its business or financial status. It is in material compliance with the terms and conditions of any collective agreements, consulting agreements, management agreements and employment agreements.

(w) **Processing and Handling of Waste**

The processing, storage, handling and to the extent applicable, disposal of chemical or waste inventory by it are being conducted in all material respects in accordance with Environmental Laws.

(x) **General Environmental Representations**

As of the date hereof:

(i) it is not aware of any environmental problem or potential problem which materially adversely affects it or any of its assets;

(ii) there is no action or other proceeding which has been commenced against it or any of its assets with respect to any breach of Environmental Laws;

(iii) it has not used any of its real property, to manufacture, store or otherwise deal with any contaminants, pollutants, dangerous or toxic substances, liquid wastes or other hazardous substances except in material compliance with all applicable Environmental Laws, and it has complied with all federal, provincial and municipal orders, regulations and by-laws relating to environmental matters; and

(iv) There have been no "spills" of "pollutants", as those terms are defined in the *Environmental Protection Act*, R.S.O. 1990 c. E.19, for which it is responsible either as the "owner of the pollutant", or "person having control of a pollutant" as those terms are defined in the *Environmental Protection Act*, R.S.O. 1990, c. E.19.

2.2 **Survival of Representations, Warranties and Covenants**

The covenants, agreements, representations and warranties set forth in this Agreement, and in any certificate or other document delivered hereunder, shall continue in full force and effect until repayment in full of all of the Indebtedness, notwithstanding any investigation made by the Lender or its counsel, or any other representative of the Lender, or the making of any Advance hereunder.

ARTICLE 3.00 - REPAYMENT AND INTEREST

3.1 **Principal Amount and Payments**

Subject to the terms and conditions hereunder, and relying upon the representations and warranties herein set forth, the Lender hereby agrees to lend to the Borrower an aggregate principal amount of up to Thirty-Seven Million Five Hundred Thousand Dollars ($37,500,000), such

to be advanced in a single Advance on the terms as hereinafter described. Upon the completion of all personal property registry registrations in respect of the Security and the satisfaction of all conditions under this Agreement, the Lender shall Advance into a trust account controlled by the Lender the sum of Thirty-Seven Million Five Hundred Thousand Dollars ($37,500,000). Upon presentation by the Borrower to the Lender of payout letters in connection with the payout of the term loan portion of the loan facilities provided by Royal Bank of Canada to the Borrower (such that following the payout of the term loan portion of the loan facilities, the only outstanding credit facility the Borrower will have with Royal Bank of Canada would be an operating credit facility on the terms described in the loan agreement between Royal Bank of Canada and each of the Obligors), the payout of Volvo Commercial Finance Services Inc. (and entities related to Volvo Commercial Finance Services Inc.) and the payout of any other equipment lessor desired to be paid out or not being a Permitted Encumbrance as at the Closing Date, the Lender shall pay to such creditors the amounts specified in such payout letters, all subject to the restrictions of the use of funds requirements of section 5.1(o) (as defined in section 5.1(o), the **"Program"**). In respect of the remaining funds of the Advance not used for the foregoing payouts, such funds shall be held in such trust account and released to the Borrower from time to time upon the Borrower providing to the Lender a certificate of the Chief Financial Officer of the Borrower certifying that: (i) the Borrower and each Guarantor, as applicable, are in compliance with their respective covenants under this Agreement; (ii) no Default has occurred; and (iii) stating the amount of the requested release and the purpose of the funds to be so provided to the Borrower, all as may be subject to the restrictions on use of funds of the Program. Upon a Default, the Lender shall be entitled to exercise its rights, among others, under Section 7.1(b) with respect to such trust account funds.

(a) **Proof of Outstanding Loan Amount.** The records maintained by the Lender of the amounts of the Loan advanced to the Borrower in connection with this Agreement, the amount of advances of the Loan which are outstanding and the amount of interest and other fees and costs payable and paid under this Agreement shall constitute *prima facie* proof thereof in any legal proceedings or action in respect of this Agreement

3.2 **Principal Repayment**

The Loan shall be advanced as interest only for the period of time from the advance to the maturity date of December 15, 2008 and the principal amount shall be fully due and owing on the maturity date of December 15, 2008.

3.3 **Conditions Precedent**

The following conditions precedent shall be satisfied to the Lender's sole discretion prior to advance of the Loan:

(1) The Security shall be executed by the Borrower and each Guarantor and, where applicable, in registerable form, and all registrations and other actions required to fully perfect and maintain the priority of the Security shall have been successfully completed to the satisfaction of the Lender's counsel.

(2) Legal opinions shall be issued by counsel for the Borrower and each Guarantor opining :

(i) as to the valid existence and good standing of the Borrower and such Guarantor;

(ii) as to the due authorization, execution, delivery, enforceability and validity of the Loan Documents with respect to the Borrower and such Guarantor;

(iii) except as set out in **Schedule "B"** hereto, that there is no litigation, action, proceedings or like matter pending with respect to the Borrower or any Guarantor of which they are aware other than property and casualty, collection or freight claims in the ordinary course of business; and

(iv) as to such other matters as the Lender and the Lender's counsel reasonably may specify.

(3) Current *Personal Property Security Act* searches for the Borrower and for each Guarantor in those jurisdictions set out in **Schedule "C"** together with all subordinations, releases and discharges to ensure the first priority position of the Security on the personal property of the Borrower and Guarantors (subject to Permitted Encumbrances) shall have been completed and received.

(4) Evidence and assignments of insurance as required by this Agreement, and conforming in all respects to the requirements of the Lender, shall have been delivered, including a report addressed to the Lender from an insurance consultant appointed by the Lender reviewing the adequacy of insurance and evidence it is in full force and effect.

(5) Certified copies of the constating documents, including, without limitation, any letters patent, articles of incorporation, memorandum of association, articles of association, certificates of amalgamation, articles of continuation, articles of amendment, declarations of trust, limited partnership agreements, and borrowing by-laws of the Borrower and each Guarantor, together with a certificate of the Borrower and each Guarantor certifying that its constating documents therein described are all of its constating documents and that other than as therein described such constating documents have not been amended, shall have been delivered to the Lender.

(6) Certified resolutions of the directors of the Borrower and each Guarantor, or the general partner thereof as to the limited partnerships, and manager or trustees as to the trusts, confirming that it has been authorized to execute, deliver and perform its obligations under this Agreement and the Loan Documents, shall have been delivered to the Lender.

(7) A certificate of status or similar certificate for the Borrower and each Guarantor from the applicable government ministry, dated not earlier than the Closing, shall have been delivered to the Lender.

(8) An officer's certificate for the Borrower and each Guarantor in the required form of the Lender shall have been delivered:

(9) Such financial information in connection or in respect of the Borrower and Guarantors as may be required by the Lender, shall have been provided.

(10) The Lender shall be satisfied by a certificate of a senior officer that the Borrower and each Guarantor has paid when due and in full all employee pensions and benefits payable by it, including without limitation Workplace Safety & Insurance Board premiums, Employer Health Tax premiums, Canada Pension Plan contributions and Employment Insurance Commission premiums, and has remitted when required and in full all source deductions for income tax, Canada Pension Plan contributions and Employment Insurance Commission premiums of its employees and all goods and services tax and retail sales tax paid and received by it.

(11) The Priorities Agreement, in form satisfactory to the Lender shall have been entered into.

(12) Approval by the Lender of an appraisal addressed to the Lender by an accredited appraiser appointed by the Lender indicating a market value of at least $65,000,000 as to the tractors, trailers and buses pledged as first priority security for the Loan.

(13) There will be no Default or Event of Default or default under any other loan document.

(14) The Borrower's bankers (Royal Bank of Canada) shall have confirmed an operating line of at least $30,000,000, on terms reasonably satisfactory to the Lender and subject to the Priorities Agreement.

(15) There shall be no material adverse change in the Borrower's and the Guarantor's business or their financial conditions since credit approval of the Loan.

(16) The representations and warranties shall be true and correct on and as of the date of Advance.

(17) The Lender shall have received pay out letters or certificate of the Chief Financial Officer confirming the use of funds, as specified in section 3.1 and section 5.1(o) and the documents specified in section 3.1.

(18) Such other documents or items as the Lender, or its counsel, reasonably may require shall be delivered to the Lender.

3.4 **Ongoing Condition to Advance**

At all times, the aggregate amount of the Additional Debt (other than Real Property Additional Debt) issued in accordance with section 5.1(z) and the Loan shall not be greater than sixty-five percent (65%) of the Net Book Value (as defined in section 5.3), and if at any time the outstanding principal amount of, and accrued and unpaid interest on, the Loan exceeds such amount then the Borrower shall deposit from time to time upon demand of the Lender, as may be required by the Lender to comply with the terms of this section, in a trust account controlled by the Lender, cash in an amount which will, if such amount is deducted from the outstanding principal amount of, and accrued and unpaid interest on, the Loan, result in this condition being met, the amount so deposited will be released to the Borrower at the times and in the amounts which after such release results in the Borrower being in compliance with this condition. The Borrower shall not be required under this section 3.4 to deposit more cash than is required to comply with the condition set out in this section 3.4. In the event an Event of Default has occurred, the Borrower shall not be entitled to any balance in any such trust account, and the Lender shall be entitled to apply any such balance toward the Indebtedness, or otherwise in accordance with this Agreement or the Security.

3.5 **Compliance with the *Interest Act* (Canada)**

For the purposes of this Agreement, whenever any interest is calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis of such determination.

3.6 **Nominal Rate of Interest**

The parties acknowledge and agree that all calculations of interest under this Agreement and the documents related thereto are to be made on the basis of the nominal interest rate described herein and not on the basis of effective yearly rates or on any other basis which gives effect to the principle of deemed reinvestment of interest. The parties acknowledge that there is a material difference between the stated nominal interest rates and the effective yearly rates of interest and that they are capable of making the calculations required to determine such effective yearly rates of interest.

3.7 **Criminal Rate of Interest**

Notwithstanding the foregoing provisions of this Article 3, the Borrower shall in no event be obliged to make any payments of interest or other amounts payable to the Lender hereunder in excess of an amount or rate which would be prohibited by law or would result in the receipt by the Lender of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)).

3.8 **Interest Calculation**

The principal amount outstanding from time to time hereunder, as to the Loan, shall bear interest at a rate of 6.589% per annum, calculated and payable monthly in accordance with this section.

Interest shall be calculated and payable monthly on the daily outstanding principal, and shall accrue both after and before maturity, default and judgment, with interest on overdue interest at the same rate computed from the date of each Advance calculated and payable monthly, in arrears, on the fifteenth (15th) day of each and every month in each and every year during the term commencing on January 15, 2004.

3.9 **Increased Costs, Capital Adequacy, etc.**

(a) If any change in law:

(i) subjects the Lender, or any participant in the syndication of the Loan, to any cost or tax or changes the basis of taxation of payments due to the Lender or any participant in the syndication of the Loan or increases any existing cost or tax on payments of principal, interest or other amounts payable by the Borrower or the Guarantor to the Lender or any participant in the syndication of the Loan under this Agreement (except for increased taxes on the overall net income, assets or capital of the Lender);

(ii) imposes, modifies or deems applicable any reserve, special deposit, regulatory or similar requirement against assets held by, or deposits in or for the account of, or loans by, or commitments of, or any other acquisition of funds for loans by, the Lender or any participant in the syndication of the Loan or any drafts accepted by the Lender or any participant in the syndication of the Loan;

(iii) imposes on the Lender or any participant in the syndication of the Loan a change in the manner in which the Lender or any participant in the syndication of the Loan is required to allocate capital resources to its obligations under this Agreement; or

(iv) imposes on the Lender or any participant in the syndication of the Loan any other cost, tax or condition with respect to this Agreement,

and the result of (i), (ii), (iii) or (iv) is, in the determination of the Lender, acting reasonably, to increase the cost to the Lender or any participant in the syndication of the Loan, or to impose a liability on or to reduce the income or return receivable by the Lender or any participant in the syndication of the Loan in respect of this Agreement, the Borrower and the Guarantor shall pay to the Lender that amount which indemnifies the Lender or any participant in the syndication of the Loan for such additional cost, liability or reduction in income or return (**"Additional Compensation"**). Upon the Lender having determined that it is entitled to Additional Compensation, it shall promptly notify the Borrower. A certificate by a duly authorized officer of the Lender setting forth the amount of the Additional Compensation and the basis for it shall be *prima facie* evidence, in the absence of manifest error, of the amount of the Additional Compensation. The Additional Compensation shall accrue from the date of delivery of the certificate to the Borrower. If the Lender subsequently recovers all or a part thereof, it will repay an amount equal to such recovery to the Borrower. For greater certainty, it is acknowledged that, if such increased cost, liability or reduction in income or return is also applicable, in part, to dealings between the Lender and its other customers, the obligation of the Borrower under this section to provide compensation therefor will not arise unless the Lender, as a general practice, also requires compensation therefor from such other customers and will not exceed the amount that is directly proportionate to the extent to which such increased costs, liabilities or reductions in income or return are attributable to the Borrower and the Loan made by the Lender hereunder.

(b) If the Lender notifies the Borrower that Additional Compensation is owed to the Lender, the Borrower shall have the right to make payment in full to the Lender in respect of the Loan which has given rise to the Additional Compensation on the date specified in such notice, together with all unpaid interest accrued thereon to the date of repayment and all other reasonable expenses incurred in connection with the termination, together with in any case the Additional Compensation to the date of payment, but shall not be required to pay the Accelerated Amounts.

3.10 **Taxes**

Save and except as to any such payment which would arise as a result of any Lender or any participant in the syndication of the Loan at any time being, or being deemed to be, a non-resident of Canada (such payment to be solely and only born by the Lender or any participant in the syndication of the Loan as is, or is deemed to be, a non-resident of Canada), the following shall apply as to taxes payable:

(a) Any and all payments by or on account of any obligation of the Borrower hereunder shall be made free and clear of and without deduction for any taxes; provided that if the Borrower shall be required to deduct any taxes from such payments, then (i) the sum payable shall be increased as necessary so that, after making all required deductions (including deductions applicable to additional sums payable under this Section), the Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall pay the full amount deducted to the relevant governmental authority in accordance with applicable law.

(b) In addition, the Borrower shall pay any such taxes to the relevant governmental authority in accordance with applicable law.

(c) The Borrower and the Guarantor shall indemnify the Lender and each participant in the Loan, within 10 days after written demand therefor, for the full amount of any such taxes paid by the Lender or participant, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such taxes were correctly or legally imposed or asserted by the relevant governmental authority. A certificate as to the amount of such payment or liability delivered to the Borrower by the Lender, shall be prima facie evidence absent manifest error.

(d) As soon as practicable after any payment of any such taxes by the Borrower to a governmental authority, the Borrower shall deliver to the Lender the original or a certified copy of a receipt issued by such governmental authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lender.

3.11 **Prepayment**

The Borrower is permitted to prepay the Loan in whole only and provided the Borrower gives to the Lender thirty (30) days' prior written notice, and at the time the Borrower makes prepayment pursuant to this section, the Borrower shall also pay to the Lender a premium equal to the greater of:

(i) three (3) months' interest calculated in the manner herein provided on the amount prepaid at the annual rate of interest herein provided; or

(ii) the Interest Rate Differential, if any and if positive.

3.12 **Place and Manner of Payment**

The Borrower shall deliver, by cheque or electronic transfer of funds, to the Lender, the principal and interest due at or before 11:00 a.m. on the date on which such principal and interest is due at 130 Adelaide St. W., Suite 2200, Toronto, Ontario, or such other address as the Lender may advise from time to time. If payment is made by cheque, the Borrower shall ensure receipt by the Lender on the due date whether by delivery or post, and in any event, shall, where paid by prepaid post, ensure deposit in a postal station at least five (5) days prior to the due date, payment to be credited to the account of the Borrower on the day of receipt only if received prior to 1:00 p.m., and otherwise to be credited on the next business day following receipt. The receipt of such cheque shall satisfy and discharge the liability for the principal and interest to the extent of the sums represented thereby, unless such cheque shall not be paid on presentation.

3.13 **No Set-Off**

The obligations of the Borrower to make all payments of principal and interest and all other amounts due hereunder shall be absolute and unconditional, and shall not be affected by any circumstance, including without limitation, any set-off, compensation, counter-claim, recoupment, defence or other right which the Borrower, any Guarantor or any other person may have against the Lender or anyone else for any reason whatsoever.

3.14 **Interest on Overdue Amounts**

If the Borrower fails to pay any installment of interest or principal on the date on which the same is due, the Borrower shall pay interest on such overdue amount at a rate per annum

equal to the applicable rate of interest under this Agreement then in effect. At any time, upon a default in the payment of any other amount (other than principal and interest) due under this Agreement or any of the other Loan Documents, the Borrower and the Guarantor shall pay interest on such overdue amount (which overdue amount, for greater certainty, shall not include overdue principal or interest) at a rate per annum equal to the applicable rate of interest under this Agreement then in effect plus 2%. Interest on overdue amounts shall be payable on demand and shall be calculated on a daily basis and compounded monthly from the date such amount becomes due and payable and for so long as such amount remains unpaid and on the basis of a year of 365 days. All interest provided for in this Agreement shall be payable both before and after maturity, default and judgment.

3.15 **Lapsing Fee**

The Lender will be released from its commitment to advance the Loan at its option if the Loan has not been fully disbursed before the Lapsing Date. If the Lender elects to advance the Loan after that date, the Lender shall have fully earned, there will be payable and the Lender may deduct from the Advance a stand-by fee of 1% per annum of the amount of the Loan prorated for the period from the Lapsing Date to the disbursement date.

ARTICLE 4.00 - SECURITY

4.1 **Security**

To secure the due and punctual payment of the Indebtedness, and to secure the due and punctual performance of the Borrower's other obligations and covenants hereunder, the Borrower and each Guarantor shall execute and deliver, or cause to be executed and delivered the Security to the Lender.

Without limiting any other provision in this Agreement or the Security, as security for the payment of all Loans and for the payment or other satisfaction of all other Indebtedness, each of the Obligors shall, prior to the Closing, grant to the Lender a continuing first-ranking (subject only to Permitted Encumbrances) and perfected and duly registered security interest in, lien on and assignment of all of the undertaking, property and assets of such Obligor, whether now or hereafter owned, existing, acquired or arising, tangible or intangible, real or personal and wherever located.

Each of the Obligors shall, at the Lender's request and at such Obligor's expense, at any time and from time to time, execute and deliver to the Lender such financing statements, documents and other agreements and instruments (and such Obligor shall pay the cost of filing or recording the same in all public offices deemed necessary or desirable by the Lender) and do such other acts and things as the Lender may deem necessary or desirable in order to establish and maintain a valid and perfected security interest in the Mortgaged Property in favour of the Lender (free and clear of all other liens except Permitted Encumbrances) to secure payment of the Indebtedness.

4.2 **Discharge**

Once the Borrower has satisfied all of its obligations hereunder, the Lender shall, at the written request, and at the expense, of the Borrower, discharge all charges and liens under the Security, and execute and deliver to the Borrower and each Guarantor such deeds or other instruments as shall be required to discharge the charges and liens thereof.

4.3 **Expropriation of Mortgaged Property**

If the Borrower or any Guarantor receives notice that any part of its property or assets included in the Mortgaged Property has been, or is to be, expropriated or taken by similar proceedings, the Borrower shall forthwith deliver to the Lender a written notice setting out particulars of the expropriation. The Borrower shall further cause all proceeds payable in respect of such expropriation or taking to be paid to the Lender to be applied as repayment of the Indebtedness, applied firstly to interest, and thereafter to principal to the extent of the funds received, unless otherwise agreed by the Lender at its sole option, and shall also pay any applicable prepayment premium.

ARTICLE 5.00 - COVENANTS

5.1 Positive Covenants

The Borrower and each Guarantor, except where noted as the Borrower only, hereby covenants and agrees with the Lender that so long as any of the Indebtedness remains unpaid or obligations unsatisfied:

(a) **To Pay Indebtedness**

The Borrower will punctually pay or cause to be paid to the Lender the Indebtedness at the dates, time and places, and in the manner provided for herein;

(b) **Notice of Removal of Assets**

If at any time or from time to time, it desires to remove assets which comprise part or all of the Mortgaged Property to any jurisdiction other than a jurisdiction in which the Security is validly registered to create a charge on that property, it will give the Lender twenty (20) days' notice thereof, accompanied by a full description of such assets and the proposed situs thereof, and shall deliver, prior to the removal of such assets, such documents and instruments filed or registered pursuant to applicable law, if required, as may be necessary to preserve and perfect the Lender's security interest therein in such other jurisdiction in form and content satisfactory to the Lender and its counsel, and shall pay all legal and registration costs in connection therewith. The Lender may require, at its discretion, an opinion from Borrower's counsel as to the due registration of the Security in such jurisdiction and that the Lender's security position is not prejudiced by such movement of assets;

(c) **Notice of Litigation**

It will give the Lender prompt written notice of any action, suit, litigation or other proceeding which is commenced or threatened against it and which involves either a claim or potential claim in excess of One Hundred Thousand Dollars ($100,000.00) which is not fully covered by insurance, except for deductible amounts approved by the Lender; or any claims for costs for environmental clean-up, or orders to effect any environmental clean-up;

(d) **Notice of Material Change**

The Borrower will give the Lender prompt written notice of any material adverse change in the business or condition of the Borrower or any Guarantor, financial or otherwise, or of any material loss, destruction or damage of or to any properties or assets of the Borrower or any Guarantor, including notice of any material demand upon, or material change in the terms and conditions governing, the operating or similar line of credit of Borrower and Guarantor with its bank;

(e) **To File Financial Statements and Certificate of No Defaults**

The Borrower shall furnish to the Lender:

(i) within one hundred and twenty (120) calendar days after the end of each fiscal year of Contrans Income Fund, annual financial statements as follows:

(A) audited financial statements of Contrans Income Fund, prepared in accordance with generally accepted accounting principles applied on a consistent basis, as at the end of such year, signed by two (2) officers of Contrans Corp.;

(B) a statement setting out any sales by the Borrower or Guarantors of fixed assets charged with the Security, specifically setting out the date of sale, the sale price and the method of payment including the cost and application of the proceeds of sale;

(ii) within sixty (60) calendar days after the end of each fiscal quarter of Contrans Income Fund as follows:

(A) financial statements of Contrans Income Fund, prepared in accordance with generally accepted accounting principles applied on a consistent basis;

(B) comparison of the year to date results, compared to year to date results for the immediately previous fiscal year, and against the budgeted results, provided to the Lender, as required under the terms of this Section, together with a written explanation of any variances, as to either comparison, of more than ten percent (10%); and

(C) a certificate of the chief financial officer of the Borrower, setting out, with calculations appended, basis for compliance with the financial covenants required under the terms of this Agreement in the form as may be requested by the Lender from the Borrower from time to time;

(iii) not less than sixty (60) calendar days after each fiscal year end an annual business plan and monthly operating budget of the Borrower and Guarantors showing anticipated capital expenditures for the Borrower and Guarantors for the next fiscal year on a consolidated basis;

(iv) a quarterly "Analysis of LP Operating Results", in the form as provided to the trustees of Contrans Income Fund; and

(v) such other documents as the Lender may reasonably require from time to time.

(f) **Other Information**

The Borrower will promptly furnish the Lender with such other information respecting the Borrower, Guarantors, their properties, assets, anticipated contracts, acquisitions, investments, and other matters and information relating to the Borrower, Guarantors and their business, as the Lender may from time to time

reasonably request, including specifically any request made by the Lender for delivery of operating results and balance sheet information with respect to the Borrower, any Guarantor, or with respect to business operation carried out through a joint venture, limited partnership or trust formats;

(g) **To Maintain Existence**

(i) It will at all times maintain its corporate existence;

(ii) It shall preserve and keep in full force and effect its corporate status, franchises, rights and privileges under the laws of the jurisdiction of its formation, and all qualifications, licenses and permits. It shall not without the prior written consent of the Lender wind up, liquidate, dissolve, reorganize, merge, amalgamate or consolidate with or into, or convey, sell, assign, transfer, lease, or otherwise dispose of all or substantially all of its assets, form any subsidiary or acquire all or substantially all of the assets of the business of, any person, except the Obligors may undertake internal reorganizations that do not result in assets or liabilities of the Obligors, taken as a whole, being different after the reorganization than before, provided in all cases that the Obligors have provided the Lender with a first-ranking security interest over all of their respective assets subject only to Permitted Encumbrances. It shall conduct business only in its own name and shall not change its name, or the location of its chief executive office or principal place of business unless it (a) shall have notified the Lender of such change, and (b) shall have taken all actions necessary or requested by the Lender to file or amend any financing statement or continuation statement to assure perfection and continuation of perfection of security interests under the Security;

(h) **To Carry on Business and Abide by Government Regulations**

It will at all times comply with all applicable laws, by-laws, regulations and orders, including, without limitation, Environmental Laws. The Borrower and each Guarantor will carry on its business in a proper and efficient manner, and will keep or cause to be kept proper books of account, and make or cause to be made therein true and faithful entries of all material dealings and transactions in relation to its business, and will at all times abide by all applicable laws, by-laws, regulations and orders regarding the operation of its business;

(i) **To Pay Taxes**

It will pay or cause to be paid all taxes, rates, government fees and dues levied, assessed or imposed upon it and upon its property or any part thereof, as and when the same become due and payable, save and except when, and so long as, the validity of any such taxes, rates, fees, dues, levies, assessments or imposts is in good faith, by proper legal proceedings, being contested by it, provided such proceedings effectively postpone enforcement of any lien arising from non-payment;

(j) **To Insure**

(i) **Property Cover** - The Borrower will insure the Mortgaged Property, at its own expense or that of the Guarantors, to the full insurable value thereof, and in any event to an amount at least equal to the Indebtedness, based on full replacement value, against loss or damage by fire, lightning, explosion,

windstorm, aircraft, vehicles or other insurable hazards, which are now, or hereafter, from time to time may be, insured against by the terms of a standard All-Risk property policy of insurance against loss of, or damage to, property of a class or kind similar to the Mortgaged Property, including boiler and machinery insurance, if applicable. To the extent of its interests as they may appear in this Agreement, the Lender shall be named as loss payee to the extent of its interests in the aforementioned insurance contracts effected by the Borrower which shall include a standard mortgage clause, in a form approved by the Lender.

(ii) **Liability** - The Borrower shall maintain commercial general liability insurance providing for limits of liability of not less than fifty million dollars ($50,000,000), or such lesser amount as agreed to by the Lender, for both injury to or death of a person and for property damage per occurrence.

(iii) **Form and Quality** - All insurance policies shall be endorsed in form and substance acceptable to the Lender to name the Lender as an additional insured, loss payee or mortgagee thereunder, as its interest may appear, with loss payable to the Lender, without co-insurance or Lender retention or contribution, under a standard Insurance Bureau of Canada mortgagee clause. All such insurance policies and endorsements shall be fully paid for and contain such provisions and expiration dates and be in such form and issued by such insurance companies licensed to do business in the Province of Ontario as are acceptable to the Lender. Each policy shall provide that such policy may not be cancelled or materially changed except upon thirty (30) days' prior written notice of intention of non-renewal, cancellation or material change to the Lender and that no act or thing done by the Borrower or Guarantor shall invalidate any policy as against the Lender. Blanket policies will be permitted. If the Borrower or any Guarantor fails to maintain insurance in compliance with this section, the Lender may obtain such insurance and pay the premium therefor and the Borrower and/or such Guarantor shall, on demand, reimburse the Lender for all reasonable expenses incurred in connection therewith. Each of the Obligors shall assign the policies or proofs of insurance to the Lender, in such manner and form that the Lender and its successors and assigns shall at all times have and hold the same as security for the payment of the Loan. Each of the Obligors shall deliver before the Closing Date copies of all original policies certified to the Lender by the insurance company or authorized agent as being true copies, together with the endorsements required hereunder.

(iv) **Adjustment** - It shall give notice of any loss to the insurance carrier, in accordance with its usual past practice, and, in respect of a claim or potential claim for any loss in excess of One Hundred Thousand Dollars ($100,000) which is not fully covered by insurance, it shall provide detailed notice to the Lender of the loss and claims, along with any further details as may be thereafter required by the Lender. Following the occurrence of an Event of Default which is continuing, it hereby irrevocably authorizes and empowers the Lender, as its attorney-in-fact coupled with an interest, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom the Lender's expenses incurred in the collection of such proceeds. Nothing contained in this subsection, however, shall require the Lender to incur any expense or take any action hereunder.

(iv) **Renewal Receipt** –The Borrower shall deliver, to the Lender, within thirty (30) days or such shorter period of time as is reasonable given market conditions prior to the expiry of any insurance policy required hereby, a renewal receipt, binder or new policy replacing such expiring insurance policy, or otherwise satisfy the Lender that such insurance has been renewed.

(v) **Insurance Consultant.** The Lender shall be entitled to retain an insurance consultant mutually agreed upon between the Lender and the Borrower. The reasonable costs of the insurance consultant shall be paid by the Borrower, to review the insurance policies of the Borrower as at Closing. The Borrower agrees to make such changes to their insurance policies as such insurance consultant may reasonably require and to the extent changes can reasonably be effected, are in accordance with market standards, and are agreed prior to Closing.

(vi) **Use and Application of Insurance Proceeds**. Prior to the occurrence of an Event of Default, it shall be entitled to apply proceeds of property damage insurance to pay costs of restoration and after the occurrence of an Event of Default which is continuing, the Lender in its sole discretion shall be entitled to apply proceeds of property and boiler and machinery insurance to repay the Loan, notwithstanding that the Loan may not then be due and payable, and other amounts owing under the Security or to pay the costs of restoration of the affected assets with respect to which such proceeds arose.

(k) **Employee Payments**

It will withhold from each payment to any of its officers, directors and employees the amount of all taxes, including, but not limited to, income tax and other deductions required to be withheld therefrom and will pay the same to the proper tax or other receiving authorities within the time required under any applicable tax legislation;

(l) **Further Assurances**

At any and all times it will do, execute, acknowledge, deliver, file and register, or will cause to be done, executed, acknowledged, delivered, filed and registered all and every such further acts, deeds, conveyances, mortgages, transfers and assurances as the Lender shall reasonably require for the purpose of giving effect to this Agreement and shall pay, forthwith, the reasonable costs and expenses of the Lender in connection therewith;

(m) **Payment of Costs and Expenses**

The Borrower will pay or reimburse the Lender and its agent for all reasonable costs, charges and expenses (including legal fees and disbursements on a solicitor and his own client basis) of or incurred by the Lender in connection with the completion of the loan transaction provided for in this Agreement and the Security taken in pursuance hereof, including all reasonable costs of title examination, compensation of engineers, solicitors, and other advisors as required, and all costs, charges and expenses of the Lender in connection with the preparation and registration of any further security or agreements required as further assurances or as a consequence of amendment or renewal, the Lender receiving advice from time to time in connection with this Agreement including relating to the recovery or enforcement of

repayment of the Indebtedness or any part thereof, or in connection with the enforcement or realization of any such Security;

(n) **To Repair**

It will at all times repair and keep in repair and good order and condition, or cause to be so repaired and kept in good order and condition, all buildings, erections, machinery and plant used in or in connection with its business, up to modern standards of usage, and replace or cause to be renewed and replaced all and any of the same which may become worn, dilapidated, unserviceable, or destroyed, and at all reasonable times, within normal business hours, following reasonable notice to the Borrower, will allow the Lender or its duly authorized agent access to the Mortgaged Property in order to view the state and condition of the same;

(o) **Use of Proceeds**

The Borrower will use the Advances only for the purpose as set out below:

Use:	**Lender**
Refinance existing Royal Bank of Canada bank term debt	$12,800,000
Refinance Volvo credit	$4,300,000
Available for Acquisitions/Lease Payments/Growth Capital/Repayment of Permitted Liens	$20,400,000
TOTAL	**$37,500,000**

(called the **"Program"**). The Program must not materially change without the Lender's prior written approval.

(p) **Change of Address**

The Borrower shall notify the Lender of any change of address of any office or other business location of the Borrower or any Guarantor existing as at the date of execution herein, and of the location of any new business premises where the Borrower or such Guarantor undertakes its business at any time, subsequent to the date of execution herein, and if the Borrower or any Guarantor ceases to carry on business at any business location;

(q) **Notice of Default**

The Borrower shall give prompt written notice to the Lender, and to any syndicate participant of which it has notice, of any Default of which it is aware hereunder;

(r) **Environmental**

It shall at all times comply with all applicable Environmental Laws and occupational health and safety laws, regulations and orders which affect it or any of its assets to the standards required by the applicable law. It shall inform the Lender in writing of each:

(i) environmental problem which materially adversely affects it or any of its assets upon becoming aware of such problem; and

(ii) legal action or proceeding commenced against it with respect to any environmental matter which may materially adversely affect it or any of its assets, promptly upon it becoming aware of the commencement of such action or other proceeding, and will specifically:

(a) establish and maintain procedures for monitoring its continued compliance with applicable Environmental Laws, which procedures shall include periodic reviews of such compliance.

(b) If it (i) receives written notice that any material violation of any Environmental Law may have been committed or is about to be committed by it, (ii) receives written notice that any administrative or judicial complaint or order has been filed or is about to be filed against it alleging material violations of any Environmental Law or requiring it to take any action of a material nature in connection with the release of hazardous substances (as defined in the *Environmental Protection Act*) into the environment, or (iii) receives any written notice from a governmental authority or other person alleging that it may be liable or responsible for costs in a material amount associated with a response to or clean-up of a release of a hazardous substances (as defined in the *Environmental Protection Act)* into the environment or any damages caused thereby, it shall provide the Lender with a copy of such notice within 10 business days of the its receipt thereof. It shall also provide to the Lender, as soon as practicable after it becomes available, a copy of any environmental site assessment or audit report, if any, required to be submitted to any governmental authority. If any such assessment or report estimates the cost of any clean-up or remedial action required by such governmental authority, it shall provide evidence satisfactory to the Lender of disbursements made from time to time to effect such clean-up or remedial action within such time as may be prescribed by such governmental authority.

(c) it will indemnify the Lender and its officers, directors, employees, shareholders, agents, and its representatives, and the loan participants hereunder, assignees of the Lender and the loan participants, and the officers directors, employees, shareholders of each of them (each, an **"Indemnified Person"**) and hold each of them harmless from and against any and all losses, liabilities, damages, costs, expenses and claims (including legal fees on a solicitor and client basis) relating to this Agreement or any other Loan Document and arising in respect of (i) any violation of an Environmental Law by it including the assertion of any Lien thereunder, (ii) the presence of any Hazardous Material affecting any real or personal property owned by it resulting in any way from the use of such property, or (iii) the release by it or the Guarantor of any Hazardous Material into the environment; provided that it shall not be obliged to indemnify any Indemnified Person for any losses, liabilities, damages, costs, expenses and claims which have arisen as a result of the gross negligence or wilful misconduct of such Indemnified Person. Its obligations and indemnification under this

section shall survive the payment and satisfaction of all Indebtedness and the termination of this Agreement. The Lender shall hold the benefit of this indemnity in trust for those other Indemnified Persons who are not parties to this Agreement.

(s) **Inspections**

It shall permit the Lender, at any reasonable time, within normal business hours following reasonable notice to it to reasonable access of all premises occupied or owned by it, for the purposes of physical inspection, and it shall make available, all financial and other records, and will permit the Lender, access to their respective books and records, for the purpose of the Lender's review, and will allow the making such copies, as shall be required by the Lender, all expenses incurred by the Lender to be at the expense of the Lender except as to the making of copies which will be provided by the Borrower.

(t) **Indemnity**

(i) **General.** The Obligors shall, jointly and severally, indemnify the Lender and each Indemnified Person against all suits, actions, proceedings, claims, losses (other than loss of profits), expenses (including reasonable fees, charges and disbursements of counsel), damages and liabilities except environmental liabilities as provided for under 5.1(q)(ii)(c) (each, a **"Claim"**) that the Lender may sustain or incur as a consequence of (a) any default by any Obligor under this Agreement or any other Document, or (b) any misrepresentation any Obligor contained in any writing delivered to the Lender in connection with this Agreement, or (c) the Lender entering into this Agreement, or (d) the use of proceeds of the Loan by the Borrower, or (e) the operations of any Obligor, except that no Indemnified Person will be indemnified for any Claim resulting from its own gross negligence or wilful misconduct.

(ii) **Certificate**. A certificate of the Lender setting out the basis for the determination of the amount necessary to indemnify the Agent or the Indemnified Person pursuant to this section shall be prima facie evidence, absent manifest error, of the correctness of that determination.

(u) **Survival**

The indemnity obligations of the Borrower and each Guarantor under this section are absolute and unconditional and shall not be affected by any act, omission or circumstance whatsoever, whether or not occasioned by the fault of the Lender, except in respect of gross negligence or wilful misconduct by it or any Indemnified Person. The indemnity obligations of the Borrower and each Guarantor under this section shall survive the repayment of the Loan and the termination of this Agreement.

(v) **Government Approvals**

It shall obtain, or cause to be obtained (to the extent not in existence on the Closing Date) and maintain, by the observance and performance of all material obligations thereunder and conditions thereof, all government approvals required for it to carry on its businesses.

(w) **Auditors**

The Borrower shall promptly give notice to the Lender of any change in its or any Guarantor's auditors and the reasons for the change.

(x) **Canadian Benefit and Pension Plans**

It shall perform all obligations (including fiduciary, funding, investment and administration obligations in all material respects) required to be performed in connection with each Canadian pension plan and Canadian benefit plan and the funding media therefor; make all contributions and pay all premiums required to be made or paid in accordance with the terms of the plan and all applicable laws.

(y) **Certification as to Equipment**

On each anniversary date hereof, or as may be otherwise reasonably requested by the Lender from time to time, an officer of the Borrower shall certify to the Lender a list of all tractors, trailers and buses (the **"Equipment Listing"**) owned by the Borrower and the Guarantors, along with another list showing all additions and deletions to the Equipment Listing since the last Equipment Listing provided by the Borrower to the Lender. In such certificate, such officer shall further confirm to the Lender that none of the Borrower nor any Guarantor has further encumbered any of their respective assets since the date hereof, or since the last certification under this section, as the case may be, except as otherwise disclosed in a schedule to such certificate.

(z) **Issuance of Additional Debt**

Subject to the Lender's right of first refusal in this section, the Borrower shall be permitted to issue Additional Debt to lenders other than the Lender provided that, if such proposed Additional Debt were taken into consideration in any calculation or determination hereunder:

a. the Borrower, utilizing consolidated pro forma financial statements of Contrans Income Fund based on the preceding 12 month's actual financial results, would be in compliance with all of the financial covenants set out in section 5.3;

b. there would be no Default under the Loan Agreement;

c. the Borrower would not have defaulted under any Debt owing to any person; and

d. the lender of such Additional Debt enters into a priorities agreement with the Lender in form and substance satisfactory to the Lender.

To the extent such Additional Debt is secured against the personal property of the Borrower, such Additional Debt may rank as to payment and security interest pari passu with the Loan, but may not rank in priority to the Loan. To the extent such Additional Debt is secured against the real property of the Borrower, the portion of Additional Debt fully, and only, secured against such real property may rank as to payment and security interest in priority to the Loan, provided that the Lender is offered the right of first refusal in respect of such Additional Debt (the **"Real Property Additional Debt"**), as more particularly set forth in the following

paragraph. For greater certainty, the Borrower shall be permitted to make payments and prepayments of principal on Real Property Additional Debt. It is a condition to the issuance of Additional Debt and the continued inclusion of such Additional Debt for the purposes of section 5.2(k)(v) that either: (i) no payments of principal on such Additional Debt be payable until maturity (except in respect of Real Property Additional Debt where the maturity date may be before or after the maturity date of the Loan); or (ii) to the extent principal payments are required or principal prepayments are made in connection with such Additional Debt, an amount equal to the Additional Debt Prepayment Percentage multiplied by the Loan (the **"Lender Reserve Amount"**) shall be paid into a trust account controlled by the Lender, to be held by the Lender until the earlier of: (1) maturity of the Loan; and (2) the occurrence of an Event of Default; at which earlier time, the Lender shall be entitled to apply the balances of such trust account in accordance with Section 7.1(b), among the Lender's other rights hereunder and under the Security. For greater certainty, the provisions of this Section in respect of the Lender Reserve Amount shall operate independently of the provisions of Section 3.1.

The Lender shall have a right of first refusal to provide the Additional Debt on terms and conditions equal to the terms and conditions set out in a *bona fide* offer to provide Additional Debt from a lender other than the Lender. If such other lender provides such Additional Debt, the maturity date of such Additional Debt must be the same as or after the maturity date of the Loan.

(aa) **Additional Subsidiary**

Immediately upon a person becoming a Subsidiary of the Borrower or any Guarantor, the Borrower and each Guarantor shall cause such person to execute and deliver security having the same priority as that outlined in section 5.2(k) of this Agreement in favour of the Lender over such person's assets, in form and substance similar to the Security delivered by the Obligors.

5.2 **Negative Covenants**

The Borrower and each Guarantor hereby covenants and agrees with the Lender that so long as any of the Indebtedness remains outstanding, without the prior written consent of the Lender, it will not:

(a) **Assets or Enter Into Amalgamations and Mergers**

(i) sell or dispose of any of the Mortgaged Property outside of the ordinary course of usual past practice;

(ii) except with respect to (i) above, sell any portion of the plant, machinery, equipment, including without limitation the Lender Rolling Stock, except transfers among the Borrower and Guarantors and among Guarantors, in all cases where the Lender holds first-ranking security against the assets of the Borrower and such Guarantors subject only to Permitted Encumbrances;

(iii) acquire, or enter into partnership or syndicate with any corporation except where: (1) the acquisition, partnership or syndicate relates and is restricted to the same or similar business as the Borrower and Guarantors; and (2) the cost of such acquisition, partnership or syndicate does not exceed Ten Million Dollars ($10,000,000) for all transactions of the Borrower and the Guarantors in any fiscal year of the Borrower. For the purposes of this

section, for clarity, "business" shall be defined as the operation of similar trucking lines as currently exist and the operation of school buses;

(b) **As to Encumbrances**

enter into any agreement to encumber any asset, or create or permit to exist any mortgage, hypothec, charge, pledge, lien or encumbrance, or other security interest, whether by fixed or floating charge, which would rank in any respect prior to, or pari passu with the Security, upon its undertaking, property or assets, or any part or parts thereof, except for the Security and Permitted Encumbrances;

(c) **Not to Commit Waste**

remove or destroy any of its buildings, machinery or any structure, comprising the Mortgaged Property or the plant, machinery or fixtures attached or appertaining thereto, or otherwise forming part of the Mortgaged Property;

(d) **Restriction on Corporate Distribution**

the Borrower and Guarantor shall not, unless otherwise expressly agreed to in writing by the Lender: (i) make or declare any Corporate Distribution at any time that there is a Default under this Agreement or after such Corporate Distribution there would be a Default under this Agreement; or (ii) make any Corporate Distribution by way of distributions on the units of the Contrans Income Fund or to the holders of the Class A or Class B limited partnership units of the Borrower if the EBITDA, calculated on a on a trailing 12 month basis, is less than $30,000,000 for two consecutive fiscal quarters;

(e) **Restriction on Sale and Leasebacks**

sell, assign or dispose of any property in any transaction or series of transactions which will conclude with a reacquisition by the Borrower or a Guarantor of the same or similar property if:

(i) the transferred assets are subject to any encumbrance after the transfer to which such property was not subject before the transfer;

(ii) or the transfer is pursuant to a conditional sale agreement or other title retention agreement, including a financing transaction or capital lease arrangement

unless in either case the transfer is in the ordinary course of usual past practice, does not include the assets in relation to which the Lender holds a first security interest, including without limitation, the Lender Rolling Stock, and the holder of any security interest or title interest in the property transferred executes a "non-disturbance" agreement and assignment of lease in form and content satisfactory to the Lender, and, if in respect of real property, is an arm's length third party transaction; or

(iii) either before and after such transaction, the Borrower is in Default;

(f) **Restrictions on Repayment of Subordinated Debt**

at any time after the occurrence of an Event of Default, make any payment of interest, principal or fees on any Debt of the Borrower or Guarantor, the payment and security of which is, pursuant to written agreement, or by law, subordinate to the Indebtedness, it being acknowledged that the indebtedness of the Borrower or Guarantors to Royal Bank of Canada will be subject to the provisions of the Priorities Agreement. At any time before the occurrence of an Event of Default, the Borrower or the Guarantor may make any scheduled or ordinary course payments of interest, principal or fees on any Debt of the Borrower or Guarantor, the payment and security of which is, pursuant to written agreement, or by law, subordinate to the Indebtedness, provided that: (i) as between payments between the Borrower and any Guarantor or among Guarantors the Lender has a first ranking security interest in all the assets of the Borrower and such Guarantors subject only to Permitted Encumbrances; and (ii) if as a result of the making of such payment, an Event of Default shall not have occurred.

(g) **Nature of Business**

permit the business to be conducted by the Borrower and Guarantors to be other than the operation of a truck transportation and school bus business;

(h) **Contingent Liabilities**

make any loan to or investment in or enter into any obligations on behalf of any other person, firm or corporation, or give any guarantee on behalf of or otherwise give financial assistance to any other person, firm or corporation, other than as among the Borrower and Guarantor without obligation or liability to any person other than the Borrower or Guarantors;

(i) **Amalgamation**

amalgamate or enter into any statutory arrangement with any other corporation or entity if following such amalgamation or statutory arrangement there has been any change in the extent or priority of the security interest held by the Lender, or there is a breach of any representation, warranty or covenant as to the resulting entity, or if the resulting entity is not and cannot provide a valid and enforceable agreement to be bound as a borrower or guarantor as applicable, but in all cases shall provide timely notice to the Lender of any amalgamation or statutory arrangement to enable the Lender to register the necessary financing statements, financing change statements of amendments to perfect or maintain the perfection of the Lender's security interests;

(j) **First Right**

enter into any financing on any currently owned real property and secured by a charge over such real property, without providing the Lender the right of first refusal set forth in section 5.1(z);

(k) **Indebtedness**

(a) The Borrower and Guarantor do not and shall not have Debt except:

(i) the Indebtedness;

(ii) indebtedness owing among the Borrower and Guarantors, initially (as at September 30, 2003) in the amounts set out in **Schedule "D"**, and as adjusted from time to time;

(iii) indebtedness in connection with Purchase Money Mortgages permitted hereunder;

(iv) the Bank Indebtedness (as defined below and subject to the restrictions below) and

(v) Additional Debt as permitted in section 5.1(z).

The Lender hereby acknowledges that the Borrower has incurred and may hereafter incur Debt to its banker, Royal Bank of Canada, (which Debt, and debt in replacement thereof together with interest, fees, costs, expenses and premiums with respect thereto is called the **"Bank Indebtedness"**), which Bank Indebtedness is or may be secured by various security instruments, over all or part of the assets and undertaking of the Borrower and Guarantor (which security and any other security now held or hereafter acquired by its banker or other persons (**"Bank"**) in respect of all or part of the undertaking, property and assets of the Borrower and Guarantor, both present and future, the **"Bank Security"**); and the Lender acknowledges that the Bank Security is a Permitted Encumbrance provided it is subject to the Priorities Agreement;

5.3 **Financial Covenants**

The Borrower and the Guarantor hereby covenants and agrees with the Lender, to be calculated on a consolidated basis (using the consolidated financial statements of Contrans Income Fund), in accordance with generally accepted accounting principles, as at the end of each fiscal quarter, that so long as any of the Indebtedness remains outstanding, it will:

(a) Maintain a ratio of Current Assets to Current Liabilities of at least 1.0 to 1.0.

(b) Maintain a ratio of Funded Debt to EBITDA of no greater than 1.5 to 1.0 on a rolling 4 quarter basis;

(c) Maintain a ratio of "Adjusted Funded Debt" to Tangible Capital of not greater than .70 to 1.0.

(d) Maintain a ratio of the Loan and Additional Debt (other than Real Property Additional Debt) to Net Book Value of no greater than .65 to 1.0.

For the purposes of this Article, the following terms shall have the following meanings:

(a) **"Adjusted Funded Debt"** means, with respect to any person, as of the date of determination thereof, all Funded Debt outstanding as of such date of determination plus the product of 6 multiplied by the aggregate of all scheduled payments on operating leases for the most recently ended rolling four quarter period;

(b) **"Current Assets"** means, at any time the current assets determined in accordance with GAAP;

(c) **"Current Liabilities"** means, at any time the current liabilities determined in accordance with GAAP; provided, that **"Current Liabilities"** shall not include: (i) the

current portion of Long Term Debt; or (ii) the amount of advances made to any Obligor to finance acquisitions and/or capital expenditures (other than Maintenance Capital Expenditures) for the six-month period starting from the date such advance is made;

(d) **"EBITDA"** means, for any person, for any period, on a consolidated basis, net income increased, to the extent deducted in calculating net income, by the sum of (i) interest charges, (ii) income taxes paid or accrued in accordance with GAAP for such period, (iii) depreciation and amortization expense; and (iv) items classified as unusual non-cash gains or losses in the audited financial statements, or a write down of the stated value of goodwill or intangibles, all in accordance with GAAP;

(e) **"Funded Debt"** means, at any time, all Debt which bears interest or to which interest is imputed plus, without duplication, all obligations for the deferred payment of the purchase of property, all capital lease obligations, all indebtedness secured by Purchase Money Mortgages, and the amount of any financial assistance provided in respect of liabilities of any other person but net of cash or cash equivalents on hand as reflected in the financial records of the Obligors at the time of measurement;

(f) **"Net Book Value"** means the net book value of the all of the Lender Rolling Stock, as such value is specified by the most recent financial records of the Obligors at the time of such measurement;

(g) **"Tangible Capital"** means the sum of equity plus subordinated debt plus Adjusted Funded Debt minus intangible assets.

ARTICLE 6.00 - DEFAULT AND ENFORCEMENT

6.1 **Events of Default**

Each and every of the following shall be an Event of Default under this Agreement:

(a) if the Borrower makes any default in payment of the principal and/or interest owing as Indebtedness as and when the same becomes due under any provision hereof;

(b) if the Borrower or any Guarantor shall neglect to carry out or observe any covenant or condition (other than those relating to the payment of principal and interest as set forth in 6.1(a) and that in section 5.1(t)) hereunder or if the Borrower or, any Guarantor shall neglect to carry out or observe any covenant or condition under the Security, provided the Borrower and the Guarantor shall, in each case, have ten (10) days after receipt of notice from the Lender to remedy such default before the Borrower or the Guarantor, as the case may be, shall be in Default hereunder, or provided that such default cannot be cured within such ten (10) day period and the Borrower or the Guarantor, as the case may be, so advises the Lender prior to the termination of such ten (10) day period and provided further that such default is capable of being cured and the Lender in its sole discretion is satisfied that the Borrower or the Guarantor, as the case may be, is diligently proceeding to cure such default, the Lender may provide the Borrower or the Guarantor an additional twenty (20) days to remedy such default before the Borrower or the Guarantor, as the case may be, shall be in Default hereunder;

(c) if the Borrower or any Guarantor ceases, or threatens to cease, carrying on its business or if a petition shall be filed, an order shall be made or a resolution be

passed for the winding-up or liquidation of the Borrower or any Guarantor, or the auditor at any time issues an audit report expressing a "going concern" qualification with respect to the Borrower or any Guarantor;

(d) if the Borrower or any Guarantor shall become insolvent, or shall make a bulk sale of its assets (other than a bulk sale of assets among the Borrower and Guarantor or among Guarantors after which bulk sale of assets the Lender has the same priority of security interest over the assets as prior to the bulk sale of such assets, being a first-ranking security interest in all of the assets of each of the Obligors subject only to Permitted Encumbrances), a general assignment for the benefit of its creditors, a proposal under the *Bankruptcy and Insolvency Act* (Canada), or if a bankruptcy petition shall be filed or presented with respect to the Borrower or any Guarantor and with respect to such proceeding instituted against it, such is not removed or discharged or unstayed prior to the legal effect of such process, or if a custodian, sequestrator, receiver, receiver and manager, or any other officer with similar powers shall be appointed of its properties, or any part thereof of the Borrower or any Guarantor which is, in the opinion of the Lender, a substantial part thereof;

(e) if any proceedings respecting the Borrower or any Guarantor are commenced by or against the Borrower or the Guarantor under the *Companies' Creditors Arrangement Act* (Canada), the *Winding-Up and Restructuring Act* (Canada), or any legislation or other provision of law providing for similar effect;

(f) if an encumbrancer shall take possession of the property of the Borrower or any Guarantor or any part thereof which is, in the opinion of the Lender, a substantial part thereof, or if a distress or execution or any similar process be levied or enforced there against the Borrower or any Guarantor, and such remains unsatisfied for such period as would permit such property or such part thereof which is, in the opinion of the Lender, a substantial part to be sold or seized thereunder;

(g) if default shall occur under any obligation of the Borrower or any Guarantor to repay borrowed money or interest thereon to any person which is outstanding in an aggregate amount exceeding One Hundred Thousand Dollars ($100,000) and such default is not waived or rectified within the period provided for rectification in any governing agreement;

(h) if any of the representations and warranties contained herein or in any of the Security shall prove to have been false or misleading in any material respect from time to time;

(i) if, without the prior written consent of the Lender, which consent shall not be unreasonably withheld or delayed, there is any Change in Control;

(j) if the Borrower or any Guarantor purports to assign any Loan Document without the prior written consent of the Lender; or

(k) if the Borrower shall make any repayment or prepayment of principal in respect of any Additional Debt (other than Real Property Additional Debt) in contravention of the provisions of Section 5.1(z).

6.2 **Acceleration on Event of Default**

Upon the occurrence of an Event of Default, the Lender may, in addition to any other rights or remedies provided for herein, in the Security, at law, or in equity, by written notice to the

Borrower, declare the Indebtedness and the Accelerated Amounts to be immediately due and payable, and the same shall forthwith become immediately due and payable, and the Borrower shall forthwith pay to the Lender the Indebtedness. For greater certainty, the Lender shall be entitled to the Accelerated Amounts upon the occurrence of an Event of Default.

6.3 **Waiver of Default**

The Lender may at any time waive in writing any Default or Event of Default which may have occurred, provided that no such waiver shall extend to, or be taken in any manner whatsoever to affect, any subsequent Event of Default or the rights or remedies resulting therefrom. No delay or failure by the Lender to exercise any right or remedy hereunder shall impair any such right or remedy, or shall be construed to be a waiver of any Event of Default hereunder or under the Security, or acquiescence therein.

6.4 **Indebtedness Due Under Security**

An Event of Default hereunder shall also be a default under each Security instrument and vice versa.

6.5 **Remedies Cumulative**

Each of the remedies available to the Lender is a separate remedy and in no way is a limitation on any one or more of the other remedies otherwise available to the Lender. The rights and remedies herein expressly specified or in the Security are cumulative and not exclusive. The Lender may, in its sole discretion, exercise any and all rights, powers, remedies and recourses available herein or in the Security, or any other remedy available to it, and such rights, powers, remedies and recourses may be exercised concurrently or individually without the necessity of any election.

ARTICLE 7.00 - ENFORCEMENT OF SECURITY

7.1 **Remedies**

Whenever the Security has become enforceable, but subject to the provisions hereof:

(a) The Lender may proceed to enforce its rights by any action, suit, remedy or proceeding authorized or permitted by law or by equity, and may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have its claims lodged in any bankruptcy, winding-up or other judicial proceeding relative to the Borrower and any Guarantor;

(b) The Lender may enter into and upon and take possession of all or any part of the Mortgaged Property, with full power to carry on, manage and conduct the business and operations of the Borrower and any Guarantor, including the power to borrow monies or advance its own monies for the purpose of such business operations, the maintenance and preservation of the Mortgaged Property or any part thereof, the payment of taxes, wages and other charges ranking in priority to the Indebtedness and operating expenses. The Lender shall specifically have the right to exercise the rights and remedies of the Borrower and any Guarantor under any joint venture, limited partnership, trust or equivalent agreement or arrangement. The monies so borrowed or advanced shall be repaid by the Borrower on demand and until repaid with interest thereon at the rate per annum provided in section 3.3 hereunder calculated monthly, in arrears, shall form a charge upon the Mortgaged Property in

priority to the Indebtedness and shall be secured by the Security. The Lender shall have the right to demand and to receive the revenues, incomes, issues and profits of the Mortgaged Property and to pay therefrom all of its expenses, charges and advances in carrying on the business operations or otherwise, of the Borrower, any Guarantor and the payment of all taxes, assessments and other charges against the Mortgaged Property ranking in priority to the Indebtedness, or payment of which may be necessary to preserve the Mortgaged Property, and to apply the remainder of the monies so received in accordance with the provisions hereof. Each Obligor acknowledges that the Lender may, at any time upon the occurrence of an Event of Default, transfer, debit or withdraw any and all balances in any and all accounts of any of the Obligors, including, without limitation, the trust accounts specified in Sections 3.1, 3.4 and 5.1(z), and apply all or part of such balances to reduce any portion or all of the Indebtedness;

(c) The Lender may, either after entry as provided herein, or without any entry, and with or without possession or control of the Mortgaged Property sell and dispose of all the Mortgaged Property, either as a whole or in separate parcels at public auction, by tender, or by private contract at such time and on such terms and conditions, having first given such notice of the time and place of such sale, as it may think proper. The Lender may make such sale whether by auction, tender or private contract, either for cash, upon credit, or in exchange for bonds, mortgages, stocks or other securities of another corporation, or partly for one and partly for the other upon such reasonable conditions as to terms of payment as it may deem proper, and upon any such sale, shall be obliged to account to the Borrower and any Guarantor only in relation to monies actually received and only at the time of receipt. It shall be lawful for the Lender to rescind or vary any contract of sale that may have been entered into, and resell with or under any of the powers conferred herein, to adjourn any such sale from time to time, and to execute and deliver to the purchaser or purchasers of the said property, or any part thereof, good and sufficient deed or deeds for the same, the Lender being hereby irrevocably constituted an attorney of the Borrower and each Guarantor for the purpose thereof, any such sale made as aforesaid shall be a perpetual bar both in law and equity against the Borrower and each Guarantor and its assigns and all other persons claiming the said property or any part or parcel thereof, by, from, through, or under the Borrower and each Guarantor or its assigns, and the proceeds of any such sale shall be distributed in the manner hereinafter provided; and

(d) The Lender or any agent or representative thereof, may become the purchaser at any sale of the Mortgaged Property whether made under the power of sale herein contained, pursuant to foreclosure, or other judicial proceedings.

7.2 **Remedies Not Exclusive**

No remedy for the enforcement of the rights of the Lender shall be exclusive of, or depend on, any other remedy, but any one or more remedies may from time to time be exercised independently or in combination.

7.3 **Remedies Not Prejudiced by Delay**

No delay or omission of the Lender to exercise any remedy shall impair any such remedy, or shall be construed to be a waiver of any Event of Default hereunder or under the Security, or acquiescence therein.

7.4 **Yield Possession**

Upon the occurrence of an Event of Default which is continuing, the Borrower shall yield possession of the Mortgaged Property and the conduct of its business in connection therewith to the Lender and agrees to put no obstacles in the way of, but to facilitate by all legal means, the actions of the Lender hereunder, and not to interfere with the carrying out of the powers hereby granted to it. The Borrower and each Guarantor shall forthwith, by and through its officers and directors, at any time upon the occurrence of an Event of Default which is continuing, and request in writing by the Lender execute such documents and transfers as may be necessary to place the Lender in legal possession of the Mortgaged Property and its business in connection therewith, and thereupon all the powers and functions, rights and privileges of each and every of its directors and officers shall cease and determine solely with respect to the possession of the Mortgaged Property, unless specifically continued in writing by the Lender, or unless the property shall have been restored to the Borrower.

7.5 **Lender Entitled to Perform Covenants**

Upon the occurrence of an Event of Default which is continuing, the Lender may, in its discretion, perform any of the covenants of the Borrower or any Guarantor capable of being performed by the Lender, and if any such covenant requires the payment or expenditure of money, the Lender may make payments or expenditure with its own funds, or with money borrowed by or advanced to it for such purpose, but shall be under no obligation to do so, and all sums so expended or advanced shall be at once payable by the Borrower on demand, shall bear interest at the rate of eighteen per cent (18%) per annum, calculated and payable monthly, in arrears, until paid, and shall be payable out of any funds coming into the possession of the Lender in priority to the Indebtedness, but no such performance or payment shall be deemed to relieve the Borrower or any Guarantor from any Event of Default hereunder.

7.6 **The Lender as Agent and Power of Attorney**

Upon the occurrence of an Event of Default which is continuing, and written notification by the Lender, the Borrower and each Guarantor hereby irrevocably appoints the Lender to be its attorney, and in its name and on its behalf, to execute and carry out any deeds, documents, transfers, conveyances, assignments, assurances, consents and things which the Borrower and such Guarantor ought to, or may, sign, execute and do hereunder, and generally to use its name in the exercise of all or any of the powers hereby conferred on the Lender, with full power of substitution and revocation. In the exercise of all of its rights hereunder, the Lender shall be, so far as concerns responsibility for its action or inaction, the agent of the Borrower and each Guarantor.

7.7 **For the Protection of the Lender**

In realizing upon the Mortgaged Property, the Lender shall not be responsible for any loss occasioned by any demand, collection, enforcement, sale or other realization thereof, or the failure to, or delay in, demand, collect, enforce or sell any portion, and the Lender shall not be bound to protect the Mortgaged Property from depreciating in value. Upon any sale or realization of the Mortgaged Property by way of public auction, the Lender may become purchaser free from any right or equity of redemption, which right or equity is expressly waived by the Borrower, Guarantor and the Lender may, in paying the purchase price, apply so much of the obligations of the Borrower and any Guarantor hereunder on account of the purchase price as may be necessary for such purpose.

7.8 **Charges for Late Payment**

Notwithstanding any waiver or enforcement of an Event of Default hereunder, the Borrower acknowledges that the Lender shall be paid interest on overdue interest at the applicable

rate set out in section 3.3 and the sum of Two Hundred and Fifty Dollars ($250.00) in each instance, to compensate for costs, penalties or expenses caused to the Lender arising as a result of any payment made after its due date hereunder.

7.9 **Lender's Agents**

The Lender may appoint any agent or representative to exercise any of its rights hereunder, provided that it is specifically acknowledged and agreed that First Treasury Corporation may appoint a management subsidiary to act as agent or representative of the Lender at any time without formal appointment or notice to the Borrower at no additional cost to the Borrower. The syndicate participants, from time to time, may exercise the rights and remedies of the Lender, directly or by appointment of a participant as a successor or assign to the Lender on written notice provided by the participants in the Loan holding not less that 66.67% of the outstanding principal amount of the Loan at the relevant time to the Borrower advising as to what participant will be so exercising the rights of the Lender.

ARTICLE 8.00 - APPLICATION OF FUNDS

8.1 **Appointment of Receiver**

If the Security shall become enforceable, the Lender may appoint a receiver, manager, or receiver and manager of the Borrower, Guarantors and/or Mortgaged Property, or any part thereof (hereinafter called the **"Receiver"**), and may remove any Receiver so appointed and appoint another in his stead, and the following provisions shall take effect:

(a) such appointment may be made at any time after the Security shall have become enforceable and either before or after the Lender shall have entered into or taken possession of the Mortgaged Property or any part thereof, but such appointment may be revoked upon the direction in writing of the Lender;

(b) every such Receiver shall be vested with all or any of the powers and discretions of the Lender;

(c) such Receiver may carry on the business of the Borrower and any Guarantor or any part thereof, and may exercise all the powers conferred upon the Lender hereby;

(d) the Lender may from time to time fix the remuneration of every such Receiver, which remuneration shall be reasonable, and direct the payment thereof out of the Mortgaged Property or the proceeds thereof in priority to payment of the Indebtedness;

(e) the Lender may from time to time require any such Receiver to give security for the performance of his duties, and may fix the nature and amount thereof, but shall not be bound to require such security;

(f) every such Receiver may, with the consent in writing of the Lender, borrow money for the purpose of carrying on the business of the Borrower and any Guarantor, for the maintenance of the Mortgaged Property or any part or parts thereof, or for any other purposes approved by the Lender, and may issue security on the Mortgaged Property in priority to the Security and in the amounts from time to time required to carry out the duties of the Receiver appointed hereunder, which shall bear interest as shall be reasonably determined by the Receiver;

(g) save so far as otherwise directed by the Lender, all monies from time to time received by such Receiver shall be paid over to the Lender; and

(h) every such Receiver shall so far as concerns responsibility for his acts and omissions in exercising all or any of the powers and discretions conferred upon him hereunder, be deemed the agent of the Borrower or a Guarantor and not of the Lender and the Lender shall not be responsible for any act or default of any Receiver.

8.2 **Application of Funds**

Except as otherwise herein provided and subject to the terms of the Priority Agreement, the monies arising from any enforcement of the Security shall be applied as follows:

(a) firstly, in payment of, or reimbursement to the Lender of, the expenses, disbursements, Accelerated Amounts, and advances of the Lender (including the fees and expenses of any Receiver, agent or representative appointed pursuant hereto or under the Security and any legal fees with respect thereto, on a solicitor and client basis) incurred or made in connection with the enforcement of this Agreement or the realization of the Security;

(b) secondly, in payment of interest on overdue interest, interest and principal included in the Indebtedness, in that order of priority, and in the case of accrued and unpaid interest in reverse order of maturity; and

(c) the surplus, if any, shall be paid to the Borrower or its assigns.

8.3 **Deficiency**

If the monies received by the Lender or any Receiver are insufficient to repay to the Lender all monies due to it, the Borrower shall forthwith pay or cause to be paid to the Lender such deficiency.

ARTICLE 9.00 – NOTICES

9.1 Any demand or notice to be given by any party hereto to any other party shall be in writing and may be given by personal delivery, or except during any period when postal service is interrupted, by prepaid registered mail or by telecopy or by other means of instantaneous transmission that produces a permanent copy (**"other communication"**) addressed as follows:

(a) to the Borrower at:

1179 Ridgeway Road
Woodstock, Ontario
N4S 8P6

Attention: Chief Financial Officer

Telecopy No.: (519) 421-3399

(b) to the Lender at:

130 Adelaide Street West
Suite 2200
Toronto, Ontario
M5H 3P5

Telecopy No.: (416) 367-2594

and if given by registered mail shall be deemed to have been received by the party to whom it was addressed on the date falling four (4) business days following the date upon which it has been deposited in the post office with postage and cost of registration prepaid, and if personally delivered to an adult during normal business hours, when so delivered, and if given by other communication the third (3rd) business hour after transmission and confirmation of receipt. Provided that any of the above-named parties may change the address designated from time to time, by notice in writing to the other party hereto.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the 15th day of December, 2003.

CONTRANS HOLDING LIMITED PARTNERSHIP by its sole general partner **CONTRANS HOLDING GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

CONTRANS INCOME FUND, by its administrator **CONTRANS CORP.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

CONTRANS CORP.

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS BULK LP, by its general partner **LAIDLAW CARRIERS BULK GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS FLATBED LP, by its general partner **LAIDLAW CARRIERS FLATBED GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

FIRST TREASURY FINANCIAL INC.

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

CONTRANS OPERATING TRUST, by its administrator, **CONTRANS CORP.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS PCS LP, by its general partner, **LAIDLAW CARRIERS PCS GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS TANK LP, by its general partner, **LAIDLAW CARRIERS TANK GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS VAN LP, by its general partner, **LAIDLAW CARRIERS VAN GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the 15th day of December, 2003.

CONTRANS HOLDING LIMITED PARTNERSHIP by its sole general partner **CONTRANS HOLDING GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

FIRST TREASURY FINANCIAL INC.

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

CONTRANS INCOME FUND, by its administrator **CONTRANS CORP.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

CONTRANS OPERATING TRUST, by its administrator, **CONTRANS CORP.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

CONTRANS CORP.

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS PCS LP, by its general partner, **LAIDLAW CARRIERS PCS GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS BULK LP, by its general partner **LAIDLAW CARRIERS BULK GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS TANK LP, by its general partner, **LAIDLAW CARRIERS TANK GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS FLATBED LP, by its general partner **LAIDLAW CARRIERS FLATBED GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

LAIDLAW CARRIERS VAN LP, by its general partner, **LAIDLAW CARRIERS VAN GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

TRI-LINE FREIGHT SYSTEMS LP, by its general partner **TRI-LINE FREIGHT SYSTEMS GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

BROOKVILLE CARRIERS FLATBED LIMITED, by its general partner **BROOKVILLE CARRIERS FLATBED GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

GLEN TAY TRANSPORTATION LP, by its general partner **GLEN TAY TRANSPORTATION GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

BROOKVILLE CARRIERS VAN LIMITED PARTNERSHIP, by its general partner, **BROOKVILLE CARRIERS VAN GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

NORTHSTAR PASSENGER SERVICES LP, by its general partner, **NORTHSTAR PASSENGER SERVICERS GP INC.**

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

FILLION TRANSPORT INC.

Per: _____
[Authorized Signing Officer]

Per: _____
[Authorized Signing Officer]

WP/ARM/21373-92/001/ar

SCHEDULE "A"
PERMITTED ENCUMBRANCES

1. All equipment and/or vehicles leased or financed by C. Keay Investments Ltd., Ocean Trailer Rental Ltd. and Ocean Trailer Alberta Ltd., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Tri-Line Freight Systems LP and Tri-Line Freight Systems GP Inc. in favour of C. Keay Investments Ltd., Ocean Trailer Rental Ltd. and Ocean Trailer Alberta under the *Personal Property Security Act* (Alberta).

2. All equipment and/or vehicles leased or financed by CIT Financial Ltd., (formerly Newcourt Financial Ltd. and Thomas Credit Corporation Inc.,) as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Northstar Passenger Services LP and Northstar Passenger Services GP Inc. in favour of CIT Financial Ltd. under the *Personal Property Security Act* (Ontario).

3. The vehicle leased or financed by Daimler Chrysler Services Canada Inc. and Mercedes-Benz Credit Canada., as specifically described in the personal property security registration and filing in existence as of the date hereof made against Contrans Corp. in favour of Daimler Chrysler Services Canada Inc. and Mercedes-Benz Credit Canada under the *Personal Property Security Act* (Ontario).

4. All equipment leased or financed by Doering & Brown Corp., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Northstar Passenger Services LP and Northstar Passenger Services GP Inc. in favour of Doering & Brown Corp. under the *Personal Property Security Act* (Ontario).

5. All equipment and/or vehicles leased or financed by Fiduicie Alter Moneta/Alter Moneta Trust, as specifically described in the personal property security registrations and filings in existence as of the date hereof made against any Obligor in favour of Fiduicie Alter Moneta/Alter Moneta Trust under the *Personal Property Security Act* (Ontario).

6. The vehicle leased or financed by Ford Credit Canada Ltd., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Northstar Passenger Services LP and Northstar Passenger Services GP Inc. in favour of Ford Credit Canada Ltd. under the *Personal Property Security Act* (Ontario).

7. The vehicle leased or financed by Honda Canada Finance Inc., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Northstar Passenger Services LP and Northstar Passenger Services GP Inc. in favour of Honda Canada Finance Inc. under the *Personal Property Security Act* (Ontario).

8. The vehicle leased or financed by Kal Tire Saskatoon, as specifically described in the personal property security registration and filing in existence as of the date hereof made against Tri-Line Freight Systems LP and Tri-Line Freight Systems GP Inc. in favour of Kal Tire Saskatoon under the *Personal Property Security Act* (Saskatchewan).

9. The vehicle leased or financed by Gemini Ford Lincoln Sales Ltd., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Northstar Passenger Services LP and Northstar Passenger Services GP Inc. in favour of Gemini Ford Lincoln Sales Ltd. under the *Personal Property Security Act* (Ontario).

10. All equipment and/or vehicles leased or financed by any of GE Capital Canada Leasing Services Inc., GE Capital Vehicle and Equipment Leasing Inc., General Electric Capital Canada Inc. and General Electric Capital Equipment Finance Inc., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against any Obligor in favour of any of GE Capital Canada Leasing Services Inc., GE Capital Vehicle and Equipment Leasing Inc., General Electric Capital Canada Inc. or General Electric Capital Equipment Finance Inc. under the *Personal Property Security Act* (Ontario), the *Personal Property Security Act* (New Brunswick) and the Quebec Civil Code.

11. All equipment and/or vehicles leased or financed by Paccar Financial Services Ltd. as specifically described in the personal property security registrations and filings in existence as of the date hereof

11. All equipment and/or vehicles leased or financed by Paccar Financial Services Ltd. as specifically described in the personal property security registrations and filings in existence as of the date hereof made against any Obligor in favour of Paccar Financial Services Ltd. under the *Personal Property Security Act* (Ontario) and the *Personal Property Security Act* (New Brunswick).

12. All equipment and/or vehicles leased or financed by Xtra Canada, a division of Xtra Inc., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Tri-Line Freight Systems LP and Tri-Line Freight Systems GP Inc. in favour of Xtra Canada, a division of Xtra Inc. under the *Personal Property Security Act* (Alberta).

13. All equipment leased or financed by IBM Canada Ltd., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Contrans Corp in favour of IBM Canada Ltd. under the *Personal Property Security Act* (Ontario).

14. All equipment leased or financed by Teletech Financial Corporation, as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Northstar Passenger Services LP and Northstar Passenger Services GP Inc. in favour of Teletec Financial Corporation under the *Personal Property Security Act* (Ontario).

15. All equipment leased or financed by Welfred Holdings Ltd., as specifically described in the personal property security registrations and filings in existence as of the date hereof made against Northstar Passenger Services LP and Northstar Passenger Services GP Inc. in favour of Welfred Holdings Ltd. under the *Personal Property Security Act* (Ontario).

16. The property specifically described in the personal property security registration and filing in existence as of the date hereof made against Contrans Income Fund in favour of AIG Credit Corp. of Canada under the *Personal Property Security Act* (Ontario).

17. The property specifically described in the secured creditor acknowledgment delivered by Banque Nationale du Canada in respect of the personal property security registration and filing in existence as of the date hereof made against Fillion Transport Inc. in favour of Banque Nationale du Canada under the Quebec Civil Code.

SCHEDULE "B"
ACTIONS

1. Tri-Line Freight Systems LP: An application has been made before the Federal Labour Board to certify Contrans Corp. and Tri-Line Freight Systems LP as successor employers to Tri-Line Expressways Ltd. as a consequence of the acquisition of the assets, from the trustee in bankruptcy of Tri-Line Expressways Ltd. by Tri-Line Freight Systems LP. This application is not proceeding, issues have been identified as to whether in fact Tri-Line Freight Systems LP is a successor employer. Subsequent requests by owner/operators to decertify, as subsequently outlined, have stayed this application. In any event the application would lead only to recognition of union status. The only provision of the collective agreement which is applicable to the owner/operators is the requirement to collect and remit union dues. There are no benefits in favour of the owner/operators under the terms of the collective agreement. Employees of the owner/operators are entitled to the benefits which would otherwise be available to an employee, however, the obligation of the employer, Tri-Line Freight Systems LP once the certification is complete, is only to ensure that the owner/operators honour the obligations. Contrans Corp. was included in the original application; subsequent discussions and materials have indicated this was an error in ascertaining the purchaser of the assets. This has been converted by certain of the owner/operators to a decertification process.

2. **Income Trust company – Lawsuits #2 and #3**

Descriptions

Income Trust Lawsuit #2:

A class proceeding was commenced against Laidlaw Carriers Inc. and the Income Trust Company. We received the statement of claim in September of 1994. The Plaintiffs claim breach of contract in the amount of $250,000, negligent misrepresentation and misstatement in the amount of $250,000, punitive damages in the amount of $100,000, plus interest and costs. It is stated that the plaintiffs, Mr. Brian A. Aitchison and Shirley Biggar, Executrix of the Estate of Bruce Biggar, deceased, or either of them, are representative of a class of plaintiffs, namely employees of Laidlaw Carriers Inc. who accepted the early retirement offer and requested that Laidlaw honour the payout guarantee in the early retirement agreement.

Income Trust Lawsuit #3:

A class proceeding was commenced against Laidlaw Carriers Inc. and the Income Trust Company. We received the statement of claim on September 16, 1994. The plaintiff claims breach of contract in the amount of $250,000, negligent misrepresentation in the amount of $250,000, punitive damages in the amount of $100,000, plus interest and costs. It is stated that the plaintiff, Mr. Kenneth R. Schweyer is representative of a class of plaintiffs, namely employees of Laidlaw Carriers Inc. who accepted the early retirement offer, but who in the same year, accepted Laidlaw's offer to return to their former employment.

The two above-noted separate classes of plaintiffs were combined, and during February 2000, certified into one class action lawsuit.

SCHEDULE "C"
LIST OF ASSETS AND CHIEF EXECUTIVE OFFICES

Name: Contrans Holding Limited Partnership
Head Office: Ontario
Location of Assets: Ontario

Name: Contrans Income Fund
Head Office: Ontario
Location of Assets: Ontario

Name: Contrans Operating Trust
Head Office: Ontario
Location of Assets: Ontario

Name: Contrans Corp.
Head Office: Ontario
Location of Assets: Ontario

Name: Laidlaw Carriers PCS LP
Head Office: Ontario
Location of Assets: Ontario, Quebec

Name: Laidlaw Carriers Bulk LP
Head Office: Ontario
Location of Assets: Ontario, Quebec

Name: Laidlaw Carriers Tank LP
Head Office: Ontario
Location of Assets: Ontario

Name: Laidlaw Carriers Flatbed LP
Head Office: Ontario
Location of Assets: Ontario, Alberta

Name: Laidlaw Carriers Van LP
Head Office: Ontario
Location of Assets: Ontario, Quebec

Name: Tri-Line Freight Systems LP
Head Office: Ontario
Location of Assets: Ontario, Alberta, Saskatchewan, Manitoba

Name: Brookville Carriers Van Limited Partnership
Head Office: Ontario
Location of Assets: Ontario, Quebec, New Brunswick

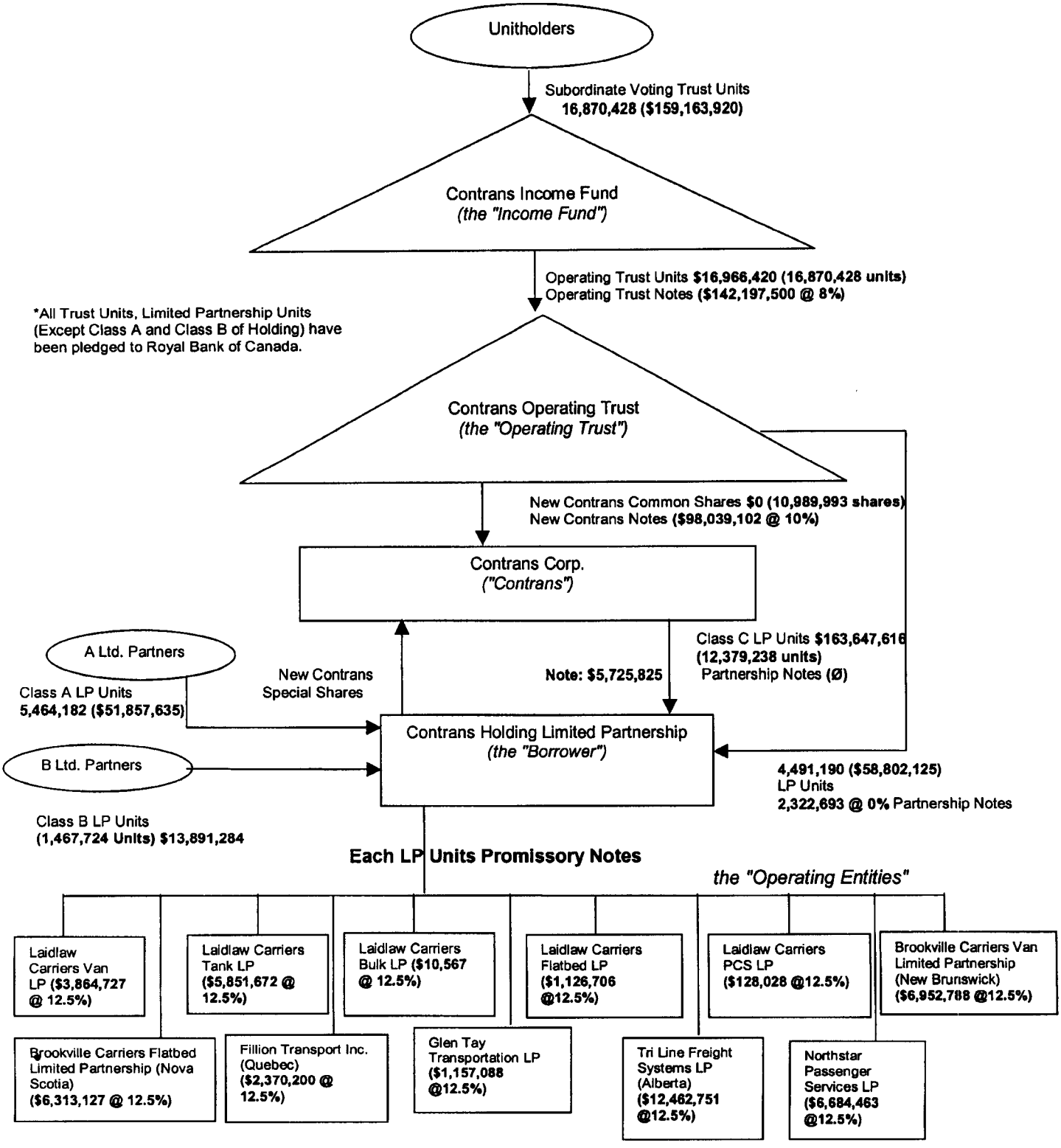
Name:	Brookville Carriers Flatbed Limited Partnership
Head Office:	Ontario
Location of Assets:	New Brunswick, Nova Scotia

Name:	Glen Tay Transportation LP
Head Office:	Ontario
Location of Assets:	Ontario, Quebec

Name:	Northstar Passenger Services LP
Head Office:	Ontario
Location of Assets:	Ontario

Name:	Fillion Transport Inc.
Head Office:	Quebec
Location of Assets:	Quebec

SCHEDULE "D"
CORPORATE CHART WITH DEBT
(AS AT SEPTEMBER 30, 2003)



Contrans Income Fund
Intercompany Loans
As at September 30, 2003

Obligor	Obligee	Amount Outstanding	Rate
Contrans Operating Trust	Contrans Income Fund	$142,197,500	8%
Contrans Corp.	Contrans Operating Trust	$ 98,039,102	10%
Laidlaw Carriers PCS LP	Contrans Holding LP	$ 128,028	12.5%
Laidlaw Carriers Tank LP	Contrans Holding LP	$ 5,851,672	12.5%
Laidlaw Carriers Flatbed LP	Contrans Holding LP	$ 1,126,706	12.5%
Laidlaw Carriers Van LP	Contrans Holding LP	$ 3,864,728	12.5%
Laidlaw Carriers Bulk LP	Contrans Holding LP	$ 10,567	12.5%
Tri-Line Freight Systems LP	Contrans Holding LP	$ 12,462,751	12.5%
Brookville Carriers Van LP	Contrans Holding LP	$ 6,952,788	12.5%
Brookville Carriers Flatbed LP	Contrans Holding LP	$ 6,313,127	12.5%
Fillion Transport Inc	Contrans Holding LP	$ 2,370,200	12.5%
Glen Tay Transportation LP	Contrans Holding LP	$ 1,157,088	12.5%
Northstar Passenger Service LP	Contrans Holding LP	$ 6,684,463	12.5%

SCHEDULE "E"
FIRST TREASURY AND ROYAL BANK OF CANADA PRIORITIES AGREEMENT

See attached.

PRIORITY AGREEMENT

THIS AGREEMENT made as of the 31st day of December, 2003.

A M O N G :

FIRST TREASURY FINANCIAL INC.

(hereinafter called the "**Lender**")

OF THE FIRST PART

A N D :

ROYAL BANK OF CANADA

(hereinafter called the "**Bank**")

OF THE SECOND PART

A N D :

CONTRANS HOLDING LIMITED PARTNERSHIP

(hereinafter called the "**Borrower**")

OF THE THIRD PART

A N D :

CONTRANS INCOME FUND
CONTRANS OPERATING TRUST
CONTRANS CORP.
CONTRANS HOLDING GP INC.
TRI-LINE FREIGHT SYSTEMS LP
TRI-LINE FREIGHT SYSTEMS GP INC.
NORTHSTAR PASSENGER SERVICES LP
NORTHSTAR PASSENGER SERVICES GP INC.
GLEN TAY TRANSPORTATION LP
GLEN TAY TRANSPORTATION GP INC.
BROOKVILLE CARRIERS VAN LIMITED PARTNERSHIP
BROOKVILLE CARRIERS VAN GP INC.
BROOKVILLE CARRIERS FLATBED LIMITED PARTNERSHIP
BROOKVILLE CARRIERS FLATBED GP INC.
LAIDLAW CARRIERS PCS LP
LAIDLAW CARRIERS PCS GP INC.
LAIDLAW CARRIERS FLATBED LP
LAIDLAW CARRIERS FLATBED GP INC.

LAIDLAW CARRIERS BULK LP
LAIDLAW CARRIERS BULK GP INC.
LAIDLAW CARRIERS TANK LP
LAIDLAW CARRIERS TANK GP INC.
LAIDLAW CARRIERS VAN LP
LAIDLAW CARRIERS VAN GP INC.
FILLION TRANSPORT INC.

(hereinafter collectively called the "**Guarantors**")

OF THE FOURTH PART

WHEREAS pursuant to a loan agreement dated as of the 15th day of December, 2003, as the same may be amended or restated from time to time (the "**Lender Loan Agreement**") among the Borrower, the Lender and the Guarantors, the Borrower is, or will be, indebted to the Lender (which indebtedness, including interest, fees, premiums and other amounts owing from time to time in connection with the Lender Loan Agreement is hereinafter called the "**Lender Indebtedness**"), and the obligations and indebtedness of the Borrower to the Lender as the Lender Indebtedness has been guaranteed by each of the Guarantors such that the Lender Indebtedness and obligations of the Borrower to the Lender is secured by, *inter alia*, general security agreements of the Borrower and Guarantors, guarantees of the Guarantors and various collateral agreements (the security and any other security now held, or hereafter acquired by the Lender, in respect of the property, assets and undertaking of the Borrower and Guarantors, both present and future, to secure the Lender Indebtedness are hereinafter collectively sometimes called the "**Lender's Security**");

AND WHEREAS the Borrower is indebted, and may hereafter become indebted, to the Bank (which indebtedness, including interest, fees, costs, premiums and other amounts owing from time to time is hereinafter called the "**Bank Indebtedness**") whether pursuant to a loan agreement dated the 31st day of December, 2003, as the same may be amended or restated from time to time between the Borrower, the Bank and the Guarantors (the "**Bank Loan Agreement**") or otherwise; the Bank Indebtedness arising in connection with the Bank Loan Agreement is guaranteed by the Guarantors and secured by various documents from the Borrower and Guarantors (which security and any other security now held or hereafter acquired by the Bank in respect of the undertaking, property and assets of the Borrower and Guarantors, both present and future, whether in connection with the Bank Loan Agreement or otherwise, are herein collectively sometimes called the "**Bank's Security**");

AND WHEREAS the parties hereto have agreed upon certain priorities as hereinafter described;

AND WHEREAS the Borrower and the Guarantors have agreed that each will maintain and deal with its assets in accordance with the provisions hereof.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises, and other good and valuable consideration, the parties hereto agree as follows:

1. **Definitions**

For the purposes of this Agreement, unless there is something in the subject matter or context inconsistent therewith:

(a) "**Accounts Receivable**" means all debts, demands and choses in action in relation thereto, which are now due, owing or accruing due, or which may hereafter become due, owing or accruing due to an Obligor, and all claims in the nature of a book debt or receivable which an Obligor now has or may hereafter have, including claims against the Crown and cash-in-hand or on deposit from time to time, together with all contracts, arrangements, securities, books and records (electronic or otherwise) and papers, all evidencing or otherwise relating thereto, and, before the Lender gives notice pursuant to Section 9(a), Lease Receivables, but excluding the Lender Cash Collateral and, upon the Lender giving notice pursuant to Section 9(a), Lease Receivables (to the extent provided in Section 5).

(b) "**Business Day**" means a day other than Saturday, Sunday or a statutory holiday, or any other day upon which the Lender or the Bank is open for the transaction of business throughout normal business hours at its principal office in Toronto, Ontario.

(c) "**Creditor Obligations**" means, collectively, the Lender Indebtedness and the Bank Indebtedness owing on the date of determination.

(d) "**Creditor Security**" means, collectively, the Lender's Security and the Bank's Security.

(e) "**Creditors**" means, collectively, the Lender and the Bank and "Creditor" means either of them.

(f) "**Event of Default**" means any of the events specified in the Lender's Security, the Bank's Security, or in any other document or agreement to which the Borrower or any Guarantor is a party with the Lender or the Bank, as an event of default.

(g) "**Inventory**" means all goods now owned or hereafter acquired by an Obligor and held for sale or lease, including raw materials, work in progress or materials used or consumed in an Obligor's business or profession, finished goods and other similar tangible personal property relating to such inventory, and all proceeds thereof, including automotive spare parts, fuel and oil, and all increases, substitutions, replacements, additions and accessories thereto, and for greater certainty, excludes Rolling Stock.

(h) "**Lease Receivables**" means all amounts payable to an Obligor as a result of the lease, rental or other supply of any Rolling Stock.

(i) "**Lender Cash Collateral**" means cash and/or trust monies held or controlled by the Lender in an account designated by the Lender as being related to the Lender Cash Collateral (which, if existing at any branch of the Bank, shall include the words "in trust" in the account name) on account of (1) loan proceeds advanced but held in trust pursuant to the Lender Loan Agreement; or (2) amounts reserved for the payment of principal and interest owing to the Lender upon maturity of the Lender Indebtedness, upon the occurrence of an Event of Default under the Lender Loan Agreement or upon repayments or prepayments on Additional Debt (as that term is defined in the Lender Loan Agreement) pursuant to the Lender Loan Agreement.

(j) "**Lender Real Property**" means any Guarantor's real property financed by the Lender pursuant to the exercise of the Lender's right of first refusal to finance such real property pursuant to the Lender Loan Agreement.

(k) "**Obligors**" means, collectively, the Borrower and Guarantors.

(l) "**Other Property**" means all property of any Obligor other than Accounts Receivable, Inventory, Rolling Stock, Lender Cash Collateral, Lease Receivables and Lender Real Property.

(m) "**Principal**" includes all advances or other credit extended by a Creditor.

(n) "**Pro Rata Share**" at any time means, in relation to a Creditor, the ratio determined at the date of enforcement of the Lender's Security or the Bank's Security of the amount of the Creditor Obligations in favour of such Creditor to the total amount of the Creditor Obligations.

(o) "**Proceeds**" means identifiable or traceable property in any form derived directly or indirectly from any dealing with any property or the proceeds therefrom or that indemnifies or compensates for loss or damage to such property or its proceeds (such as insurance or expropriation), including in the case of any Rolling Stock the Lease Receivables, but excluding, upon the Lender giving notice pursuant to Section 9(a), Lease Receivables (to the extent provided in Section 5) and the Lender Cash Collateral.

(p) "**Rolling Stock**" means all tractors, trailers and passenger autobuses now owned or hereafter acquired by an Obligor.

(q) "**Service Component**" means any amount payable in respect of the service, repair or maintenance of any Rolling Stock by an Obligor (including all charges for and cost of parts and labour).

2. **Consents to Security**

Each of the Bank and the Lender hereby consent to the creation and issue of the Bank's Security and the Lender's Security, and agree that the creation, issue, registration, filing and existence of the same shall not constitute an event of default under the Bank's Security or the Lender's Security.

3. **Ranking – Rolling Stock**

The Lender's Security and the Bank's Security with respect to Rolling Stock, Lease Receivables (upon the Lender giving notice pursuant to Section 9(a) and to the extent provided in Section 5), Lender Cash Collateral, Lender Real Property and the Proceeds thereof shall rank in descending order of priority as follows:

(a) firstly, the Lender's Security, to the extent of the Lender Indebtedness and the ultimate balance thereof; and

(b) secondly, the Bank's Security.

4. **Ranking - Accounts Receivable and Inventory**

The Lender's Security and the Bank's Security with respect to Accounts Receivable, Inventory and the Proceeds thereof shall rank in descending order of priority as follows:

(a) firstly, the Bank's Security, to the extent of the Bank Indebtedness and the ultimate balance thereof; and

(b) secondly, the Lender's Security.

5. **Lease Receivables**

Notwithstanding anything to the contrary herein contained, Lease Receivables which fall due for payment (whether payable in advance or in arrears in respect of the period to which they relate) on or before the date the Lender gives notice pursuant to Section 9(a) shall constitute Accounts Receivable and not Proceeds of Rolling Stock. Any Service Component shall constitute Accounts Receivable and not Proceeds of Rolling Stock, both before and after any such notice given under Section 9(a). Notwithstanding any allocation or appropriation of payment by any obligor of any Lease Receivable to any particular Lease Receivable, for the purpose hereof each payment on account of any Lease Receivable made by a particular obligor shall be deemed to have been applied to the oldest Lease Receivable then payable by that obligor.

6. **Ranking – Other Property**

The Creditors agree with one another that their respective interests (the "**Pari Passu Security**") in any Other Property and the Proceeds thereof shall, as to the particular property, rank *pari passu* and that the Creditor Obligations secured thereby shall be equally and

rateably secured thereby, subject to the Lender's right of first refusal under the Lender Loan Agreement to finance any of the Obligors' real property and the Lender's priority rights upon the enforcement of security relating thereto. After payment in full of all reasonable costs and expenses incurred by any of the Creditors in respect of the enforcement of the Pari Passu Security as to the particular property, all proceeds from the Pari Passu Security which are distributable to the Creditors in satisfaction of the Creditor Obligations secured thereby shall be applied for the benefit of the Creditors based on their respective Pro Rata Shares, irrespective of any priority to which either of the Creditors may otherwise be entitled.

7. **Postponement and Subordination**

Each of the security agreements, debentures, mortgages and other instruments (the "**Security Agreements**") comprising the Lender's Security and the Bank's Security shall be, and is hereby, postponed and subordinated to and in favour of the other Security Agreements comprising the Bank's Security and the Lender's Security to the extent necessary to effectuate the priority rankings or sharing referred to above in paragraphs 3 to 6 inclusive, so that irrespective of the actual order of execution, delivery, registration, filing or crystallization of the Security Agreements, the Security Agreements shall be encumbrances upon the Rolling Stock, Accounts Receivable, Inventory, and all other property and assets in the same manner and to the same extent as if they had been executed, delivered, registered and/or filed for the purpose of perfecting the security represented thereby and/or crystallized in the order of the respective priorities or for the purpose of sharing as indicated in the above paragraphs 3 to 6 inclusive.

8. **Insurance Policies**

Notwithstanding any other provision hereof, the interest of any Creditor in any policy of life insurance now or in the future owned by any Obligor or in the Proceeds thereof shall not be affected by this Agreement.

9. **Realization or Enforcement**

(a) Realization or Enforcement Proceedings. Each Creditor shall deliver to the other Creditor, at least two Business Days before such notice is given by the first-mentioned Creditor to any Obligor:-

(i) any notice of any Event of Default,

(ii) any notice of a default which if not cured will with the lapse of time become an Event of Default,

(iii) any notice of an acceleration of any Indebtedness,

(iv) any demand for payment of any Indebtedness made upon any Obligor,

(v) any notice of its intention to realize on any Security, or

(vi) any application to a court for the appointment, or any private appointment, of an official to monitor or manage or realize upon the assets of any

Obligor, including an application under the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada) or the *Courts of Justice Act* (Ontario).

No Creditor shall have any liability for any inadvertent failure to comply with this Section 9(a). No failure to comply with this Section 9(a) (whether inadvertent or not) nor any act taken under Section 9(d) below shall affect the priorities established herein or impair or shall not affect the validity of any such realization or enforcement proceeding or the rights and benefits under this Agreement.

(b) Consultation. In the event the Bank or the Lender commences formal realization or enforcement proceedings, the Lender and the Bank confirm that it is their intention to consult with each other with respect to the enforcement of the Bank's Security and Lender's Security with a view to maximizing realization thereunder for their mutual benefit.

(c) Realization Includes Giving Notice to Account Debtors. For the purposes of this Agreement, realization shall include the giving of notice to account debtors, requiring that payment be made by such debtors directly to the Bank.

(d) Recourse. Nothing in this Agreement shall require either Creditor to exhaust its recourse against any particular property or Obligor before pursuing any other rights against any other property or Obligor.

(e) Results of Realization. If one Creditor is unwilling to make a private appointment of a receiver, manager or receiver-manager with respect to any of the Obligors and the other Creditor makes such an appointment, any profit arising from operating the business of any Obligor in the course of realization (in determining the results of operations, including as an expense any fees payable to such appointee for operating such business and excluding any profit or loss arising from the sale or other disposition of any property) shall constitute Proceeds to which last mentioned Creditor is entitled and any loss arising from operating the business of any Obligor in the course of realization (in determining the results of operations, including as an expense any fees payable to such appointee for operating such business and excluding any profit or loss arising from the sale or other disposition of any property) shall increase the Indebtedness owing to such Creditor and not be treated as a cost of realization.

10. **Enforcement**

Nothing contained in this Agreement is intended to, or shall, impair the obligations of the Borrower to pay to the Bank or the Lender the indebtedness owing to them, including the principal thereof, the interest and premium, if any, thereon and other amounts, as and when the same shall become due and payable in accordance with their respective terms, nor shall anything herein prevent either from exercising all remedies otherwise permitted by applicable law upon default under the terms of the Bank's Security or Lender's Security, as applicable, subject to the priorities created by this Agreement.

11. **Interests and Costs**

The priorities described in this Agreement shall extend to and include unpaid interest, costs of collection, including reasonable legal fees, and any other applicable and reasonable costs in respect thereof as set out in the Bank's Security and the Lender's Security.

12. **Proceeds**

The proceeds resulting from the enforcement or realization of any of the mortgages, charges, assignments or other security interests contained in, or constituted by, the Bank's Security or the Lender's Security, and all other proceeds received by any of the Bank or the Lender pursuant to the Bank's Security or the Lender's Security, including without limitation, insurance and expropriation proceeds, will be divided or otherwise dealt with in such a way as to give effect to the provisions of this Agreement and the priorities created and established thereby.

Provided that in the event of any transfer of title from an Obligor to the Bank or the Lender under any foreclosure provisions (so long as the priorities created and established hereby are followed), no payments shall be required to be made to the other of them on the basis of any deemed or appraised value, other than as may be required by applicable law.

13. **Use of Bank Accounts**

(a) Except as otherwise provided in this Section 13(a) and notwithstanding any other provisions hereof, the Bank shall have no obligation to the Lender with respect to any monies deposited by any Obligor in any account of any Obligor maintained at any branch of the Bank except an account designated by the Lender as being related to the Lender Cash Collateral and including the words "in trust" in the account name.

(b) If an Event of Default occurs, the Lender may give the Bank and each Obligor written notice of such default, which notice shall make reference to this Agreement and shall specify that the Lender claims entitlement in priority over the Bank to Proceeds received by the Bank. Except as provided in Section 13(e), any such Proceeds received by the Bank after its receipt of such notice to which the Lender has priority pursuant to the provisions of this Agreement shall be held in trust for the Lender and promptly remitted to the Lender.

(c) Each Obligor acknowledges that, as a result of such notice, the Bank may not allow the Obligor to utilize funds except to the extent the Bank is satisfied that such funds do not include any Proceeds to which the Lender has priority pursuant to the provisions of this Agreement.

(d) After the receipt of such notice, the Bank or the Lender may upon notice to any Obligor require that, on or before the next Business Day after each deposit is made by the Obligor into any bank account with the Bank, the Obligor deliver to the Bank and the Lender full particulars of such deposit, including the source and purpose of each deposited item and a statement signed by an authorized signing officer as to whether such item represents Proceeds to which the Lender has priority pursuant to the provisions of this Agreement, accompanied by copies of the deposit slips and deposited items.

(e) If after the receipt of such notice the Bank extends credit to any Obligor, or allows any Obligor to withdraw funds from its account with the Bank, in proper reliance upon the Obligor's disclosure with respect to a particular deposit, and with the Lender's written consent, such consent not to be unreasonably withheld or delayed, the Bank shall not be required to hold in trust or remit to the Lender any Proceeds to which the Lender has priority pursuant to the provisions of this Agreement which the Bank has received as a result of the particular deposit but which was not properly disclosed to the Bank, to the extent of the credit so provided or the funds so withdrawn.

14. **Access**

The parties hereto shall permit each Creditor and its agents, employees, representatives and any receiver or like official access at all reasonable times to any property of any Obligor which is subject to such Creditor's Security to view the same and to obtain access to the same, including the right (at the expense of each Obligor) to make copies from any books of account and all records, ledgers, reports, documents and other writings relating to such property, and to permit such Creditor, subject to the terms hereof, to remove any such property over which such Creditor has a claim ranking higher in priority than the other Creditor from the premises where situate at all reasonable times without interference, provided that such Creditor shall at its expense promptly repair or provide compensation for any actual physical injury caused to such premises by such removal (excluding, for certainty, diminution in the value of such premises or other premises caused by the absence of such removed property or by the necessity for replacement) and each Obligor waives any right to require security for the costs of such repair or compensation.

15. **Bank's Right to Use**

The Bank shall have the right and licence to enter upon, occupy and use the Other Property and the Rolling Stock in the course of realization on the Bank's Security, for a period of up to 90 days for property other than Rolling Stock and 60 days for Rolling Stock for the sole purposes of carrying on business including delivery and back haul, and collecting Accounts Receivable and realizing on any Inventory. Notwithstanding the foregoing, in the event that the Lender has entered into an agreement with a third party for the sale of any or all of the Rolling

Stock, the Lender may give the Bank 10 Business Days notice of such sale and the Bank's right to such 60 day period of use, or any remaining part thereof, in respect of such part or all of the Rolling Stock as the case may be, shall terminate. The Bank may elect to use both the Other Property and the Rolling Stock, or the one and not the other. The Bank shall pay all expenses incurred by or on behalf of the Bank or any Obligor for utilities, repairs, and maintenance and custodial expenses in connection with the Bank's use of the Other Property and/or the Rolling Stock (as applicable) in respect of the period of actual use. The Bank agrees to maintain adequate insurance for the benefit of the Creditors during the period of actual use in respect of the Other Property and/or the Rolling Stock (as applicable) for third party liability and for loss or damage to the Other Property or the Rolling Stock. During the period of actual use, the Bank shall maintain the Other Property and/or the Rolling Stock (as applicable) in the condition that it was at the commencement of the period of use and shall repair any damage caused howsoever occurring during such period, save and except only reasonable wear and tear. The Bank shall, for the period of actual use of the Rolling Stock by the Bank, pay the Lender daily interest accruing on the Lender's Indebtedness at the rate applicable to the Lender's Indebtedness prior to default, and the Bank shall be responsible for the return of the Rolling Stock in the possession of the Bank to the applicable Obligor's premises.

16. **Lender's Right to Use**

The Lender shall have the right and licence to enter upon, occupy and use the Other Property and to consume the Inventory (provided the Lender pays for such Inventory at cost) in the course of realization on the Lender's Security, for a period of up to 90 days for the sole purposes of carrying on business including delivery and back haul, and realizing on any Rolling Stock. Notwithstanding the foregoing, in the event that the Bank has entered into an agreement with a third party for the sale of any or all of the Inventory, the Bank may give the Lender 10 Business Days notice of such sale and the Lender's right to such 90 day period of consumption, or any remaining part thereof, in respect of such part or all of the Inventory as the case may be, shall terminate. The Lender may elect to use the Other Property and to consume the Inventory (provided the Lender pays for such Inventory at cost), or the one and not the other. The Lender shall pay all expenses incurred by or on behalf of the Lender or any Obligor for utilities, repairs, and maintenance and custodial expenses in connection with the Lender's use of the Other Property and/or consumption of Inventory (as applicable) in respect of the period of actual use and/or consumption. The Lender agrees to maintain adequate insurance for the benefit of the Creditors during the period of actual use in respect of the Other Property and/or consumption of Inventory (as applicable) for third party liability and for loss or damage to the Other Property and/or Inventory (as applicable). During the period of actual use and/or consumption, the Lender shall maintain the Other Property and/or Inventory (as applicable) in the condition that it was at the commencement of the period of use and/or consumption and shall repair any damage caused howsoever occurring during such period, save and except only reasonable wear and tear of the Other Property. The Lender shall, for the period of consumption of Inventory and in addition to paying the cost value of Inventory consumed by the Lender, pay the Bank daily interest at the highest rate applicable to any of the Bank Indebtedness prior to default on the cost value of the Inventory (interest to cease in respect of any particular item of Inventory upon the payment therefor by the Lender).

17. **Disclosure**

Each of the Creditors shall provide to the other Creditor such information respecting the Indebtedness of the Borrower and the Security given by any Obligor in favour of the first-mentioned Creditor, including evidence as to the aggregate amount outstanding thereunder, as such other Creditor may from time to time reasonably request. Each Obligor acknowledges that the Creditors shall be authorized to provide such information to one another or any other information with respect to each Obligor as any Creditor wishes to provide. Each Creditor is solely responsible for making its own independent appraisal of and investigation into the financial condition, creditworthiness, affairs and status of each Obligor.

18. **Obligation Several**

The Lender Indebtedness on the one hand and the Bank Indebtedness on the other hand constitute several obligations and nothing herein contained shall be construed as creating between the Creditors a partnership, joint venture or other joint association.

19. **Creditors Not to Contest**

Each of the Creditors agrees not to take any steps (directly or indirectly) to challenge or contest the legality, perfection, enforceability, effectiveness or validity of any Security now or hereafter held by the other Creditor provided the priorities created herein are followed. If any person not a party hereto (including a trustee in bankruptcy, a receiver or receiver-manager or other like person) shall have a claim to the proceeds of disposition of any property of an Obligor in priority to or on a parity with one of the Creditors but not the other Creditor, this Agreement shall not apply to diminish the rights of the other Creditor (as such rights would have been but for the provisions of this Agreement) to the proceeds of disposition of such property.

20. **Independence of Obligors' Rights and Obligations**

Nothing in this Agreement shall create any rights in favour of, or obligations to, any Obligor or any third party, and the covenants and agreements between the Creditors shall not be enforceable by any Obligor or any third party. No provision of this Agreement shall be construed as obligating any Creditor to advance any monies or otherwise extend credit to any Obligor at any time.

21. **Amendment and Waiver**

Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated except by instrument in writing, signed by the parties or by the party against whom enforcement of the change, waiver, discharge or termination is sought. No consent of any Obligor shall be necessary for any amendment to the terms hereof by the Creditors as to the rights and agreements between the Creditors. No act or omission by any party hereto in any manner whatever relating to this Agreement shall extend to or be taken to affect any provision hereof or any subsequent breach or default or the rights resulting therefrom save only express waiver in writing.

22. **Further Assurances**

The parties hereto shall do such further acts and things, and execute, deliver, register and file such further deeds, documents and assurances which may be reasonably required to give full effect to the intent and purpose of this Agreement.

23. **Notice**

Any demand or notice to be given by any party hereto to any other party shall be in writing, and may be given by personal delivery, or except during any period when postal service is interrupted, by prepaid registered mail, addressed as follows:

(a) to the Lender at:

Suite 2200
130 Adelaide Street West
Toronto, ON M5H 3P5

Attention: John Robertson

(b) to the Bank at:

Royal Bank of Canada
6880 Financial Drive
Link 2nd Floor
Mississauga, ON L5N 7Y5

Attention: Michael Lordon

(c) to the Borrower at:

1179 Ridgeway Road
Woodstock, ON M4S 8P6

Attention: Greg Rumble

(d) to the Guarantors at:

1179 Ridgeway Road
Woodstock, ON M4S 8P6

Attention: Greg Rumble

and any notice or other communication required or permitted to be given hereunder shall be in writing and, if mailed by prepaid first-class mail at any time other than during a general discontinuance of postal service due to strike, lockout or otherwise, shall be deemed to have been received five (5) Business Days after the post-marked date thereof, or if delivered by hand shall be deemed to have been received at the time it is delivered.

24. **Number and Gender**

Words importing the singular number include the plural and vice versa, and words importing gender include all genders.

25. **Law of Contract**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and shall be treated in all respects as an Ontario contract.

26. **Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the within subject matter and may not be amended or modified in any respect except by written consent signed by the parties hereto.

27. **Assignment**

This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and permitted assigns (including, to the extent applicable, any loan participants under the Lender Loan Agreement or the Bank Loan Agreement), provided that neither the Bank nor the Lender (the "**Assignor**") will assign or transfer any or all of the security held, or to be held by it, or any of its rights thereunder relating to the undertaking and assets of the Obligors, unless and until the proposed assignee or transferee shall have delivered to the other parties hereto a written agreement to be bound by the provisions hereof to the same extent as the Assignor.

28. **Consent**

Each of the Obligors hereby consents to the provisions of this Agreement, and covenants and agrees that, so long as any of the Bank Indebtedness or the Lender Indebtedness remains outstanding, it shall stand possessed of its assets so charged for the Lender and the Bank in accordance with their respective interests and priorities as herein set out.

29. **Counterparts; Fax delivery**

This Agreement may be executed in two or more counterparts, each of which when so executed and delivered shall be an original, but all of which together shall constitute one and the same instrument. Delivery of this Agreement or of any other agreement or instrument contemplated hereby may be made by telefacsimile transmission or other electronic means of communication. The sender undertakes to deliver promptly to each recipient an original of this Agreement or such other agreement or instrument executed by the sender.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

FIRST TREASURY FINANCIAL INC.

Per: _____
Name: J. ROBERTSON
Title: ASO

Per: _____
Name: DONALD BANGAY
Title: ASO

ROYAL BANK OF CANADA

Per: _____
Name:
Title:

Per: _____
Name:
Title:

CONTRANS HOLDING LIMITED PARTNERSHIP, by its general partner, **CONTRANS HOLDING GP INC.**

Per: _____
Name:
Title:

Per: _____
Name:
Title:

Guarantors:

CONTRANS INCOME FUND, by its administrator, **CONTRANS CORP.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

CONTRANS OPERATING TRUST, by its administrator, **CONTRANS CORP.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

CONTRANS CORP.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

CONTRANS HOLDING GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

FIRST TREASURY FINANCIAL INC.

Per: _____
Name:
Title:

Per: _____
Name:
Title:

ROYAL BANK OF CANADA

Per: _____
Name:
Title:

Per: _____
Name:
Title:

CONTRANS HOLDING LIMITED PARTNERSHIP, by its general partner, **CONTRANS HOLDING GP INC.**

Per: _____
Name: JAMES S. CLARK
Title: Vice President Finance & Chief Operating Officer

Per: _____
Name: W. TODD JENEREAUX
Title: Vice President Corporate Development

Guarantors:

CONTRANS INCOME FUND, by its administrator, **CONTRANS CORP.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

CONTRANS OPERATING TRUST, by its administrator, **CONTRANS CORP.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

CONTRANS CORP.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

CONTRANS HOLDING GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

TRI-LINE FREIGHT SYSTEMS LP, by its general partner, **TRI-LINE FREIGHT SYSTEMS GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

TRI-LINE FREIGHT SYSTEMS GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

NORTHSTAR PASSENGER SERVICES LP, by its general partner, **NORTHSTAR PASSENGER SERVICES GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

NORTHSTAR PASSENGER SERVICES GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

GLEN TAY TRANSPORTATION LP, by its general partner, **GLEN TAY TRANSPORTATION GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

GLEN TAY TRANSPORTATION GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

BROOKVILLE CARRIERS FLATBED LIMITED PARTNERSHIP, by its general partner, **BROOKVILLE CARRIERS FLATBED GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

BROOKVILLE CARRIERS FLATBED GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

BROOKVILLE CARRIERS VAN LIMITED PARTNERSHIP, by its general partner, **BROOKVILLE CARRIERS VAN GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

BROOKVILLE CARRIERS VAN GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS PCS LP, by its general partner, **LAIDLAW CARRIERS PCS GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS PCS GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS FLATBED LP, by its general partner, **LAIDLAW CARRIERS FLATBED GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS FLATBED GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS BULK LP, by its general partner, **LAIDLAW CARRIERS BULK GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS BULK GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS TANK LP, by its general partner, **LAIDLAW CARRIERS TANK GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS TANK GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS VAN LP, by its general partner, **LAIDLAW CARRIERS VAN GP INC.**

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

LAIDLAW CARRIERS VAN GP INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer

FILLION TRANSPORT INC.

Per: _____
Authorized Signing Officer

Per: _____
Authorized Signing Officer