

SHARE PURCHASE AGREEMENT

AMONG

1346292 ONTARIO INC.

AND

**THE CROWN IN RIGHT OF ONTARIO,
AS REPRESENTED BY THE MINISTER WITHOUT PORTFOLIO
WITH RESPONSIBILITY FOR PRIVATIZATION**

AND

**SNC-LAVALIN INC.,
GRUPO FERROVIAL, S.A. and CINTRA CONCESIONES de
INFRAESTRUCTURAS de TRANSPORTE, S.A.**

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SHARE PURCHASE AGREEMENT

THIS AGREEMENT is made 12th day of April, 1999,

AMONG:

1346292 ONTARIO INC., a corporation incorporated under the laws of Ontario
(the "Purchaser")

- and -

THE CROWN IN RIGHT OF ONTARIO, AS REPRESENTED BY THE
MINISTER WITHOUT PORTFOLIO WITH RESPONSIBILITY FOR
PRIVATIZATION

(the "Vendor")

- and -

SNC-LAVALIN INC. ("SNC"), a corporation incorporated under the laws of
Canada, GRUPO FERROVIAL, S.A. ("Ferrovial"), a corporation incorporated
under the laws of Spain and CINTRA CONCESIONES de
INFRAESTRUCTURAS de TRANSPORTE, S.A., ("Cintra"), a corporation
incorporated under the laws of Spain

(individually an "Equity Participant" and collectively the "Equity
Participants")

WHEREAS Ontario Transportation Capital Corporation ("OTCC") was a
corporation without share capital incorporated pursuant to the *Capital Investment Plan Act, 1993*
(Ontario);

AND WHEREAS the Highway 407 Act authorized the Vendor to continue
OTCC under the OBCA as a corporation with share capital;

AND WHEREAS OTCC was continued as 407 ETR Concession Company
Limited (the "Company") under the OBCA by certificate of continuance dated April 6, 1999;

AND WHEREAS the Vendor is the registered and beneficial owner of all of the
issued and outstanding shares of the Company;

AND WHEREAS the Vendor wishes to sell to the Purchaser and the Purchaser wishes to purchase from the Vendor all of the issued and outstanding shares in the capital of the Company pursuant to section 3(5) of the Highway 407 Act;

AND WHEREAS the Equity Participants are, directly or indirectly, the only beneficial owners of shares carrying or representing at least 20% of the voting power and/or equity of the Purchaser;

NOW THEREFORE in consideration of the premises and the mutual covenants and agreements herein contained and of other consideration (the receipt and sufficiency of which are acknowledged by each of the Parties hereto), the Parties hereby covenant and agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, or in any amendments hereto, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the following meanings, respectively:

- (a) **"Accounts Receivable"** means all accounts receivable of the Company;
- (b) **"Adjustment Date"** means the tenth Business Day after the calculation of the Closing Working Capital is delivered to each Party;
- (c) **"Agreement"** means this share purchase agreement and the recitals hereto and includes all Schedules set out in Section 1.4 hereto, as the same may be supplemented, amended, restated or replaced from time to time;
- (d) **"Applicable Law"** means any Canadian provincial or federal statute, law, regulation, by-law or Order that applies to the Vendor, the Purchaser or the Company;
- (e) **"Approved Bank"** means a Schedule I Canadian chartered bank having assets in excess of \$150 billion;
- (f) **"Arm's Length"** shall have the meaning ascribed thereto in the Tax Act and the related jurisprudence;
- (g) **"Articles"** means the articles of continuance set forth in the Certificate of Continuance of the Company dated April 6, 1999 issued under the OBCA;
- (h) **"Assets"** means the assets, real and personal, tangible and intangible, and undertaking of the Company at the Time of Closing, described in the Pro-Forma Balance Sheet including (i) the Highway Improvements and (ii) all buildings, fixtures, erections and structures forming part of or located in or on the Highway 407 Lands, the Operations Centre Lands,

and the Patrol Yard Lands but expressly excluding the fee simple interest in and to the Highway 407 Lands, the Operations Centre Lands and the Patrol Yard Lands;

- (i) **"Authorization"** means any approval, certificate of approval, consent, waiver, exemption, order, licence, filing, registration, permit, or other authorization or requirement of any Canadian Governmental Authority;
- (j) **"Bank Rate"** means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short-term advances to the Banks listed in Schedule I to the *Bank Act* (Canada);
- (k) **"Bid Process"** means the sale process for Highway 407 set forth in the Request for Expressions of Interest - Sale of Highway 407 Express Toll Route dated October 26, 1998 and the CIM;
- (l) **"Books and Records"** means the books of income and expenses and other financial records relating to the Business including the revenue sub ledger, the accounts payable sub ledger and the general ledger, sales and purchase records, lists of suppliers and customers of the Company and data related to the sales of transponders;
- (m) **"Business"** means the business of developing, designing, building, operating, managing, maintaining, rehabilitating and tolling Highway 407 Central, which is presently carried on by the Company;
- (n) **"Business Day"** means a day other than a Saturday, Sunday or any other day on which the principal commercial banks located in the City of Toronto, Ontario are not open for business during normal banking hours;
- (o) **"By-laws"** means the by-laws of the Company enacted since the Continuance Date;
- (p) **"CIM"** means the Confidential Information Memorandum for the Sale of Highway 407 Express Toll Route dated December 23, 1998, together with all appendices and addenda thereto;
- (q) **"Claim"** means any demand, action, cause of action, suit, proceeding, claim, assessment, Order or settlement or compromise relating thereto which may give rise to a right to indemnification under Sections 7.1 and 7.2;
- (r) **"Closing"** means the completion of the transactions contemplated by this Agreement;
- (s) **"Closing Date"** or **"Date of Closing"** means May 5, 1999 or such other date as the Purchaser and the Vendor may agree upon in writing;
- (t) **"Closing Document"** means any document delivered at or subsequent to the Time of Closing as provided in or pursuant to, this Agreement;

- (u) **"Closing Working Capital"** means an amount equal to the total of Current Assets minus the total of Current Liabilities as at the Time of Closing, calculated pursuant to Section 2.3;
- (v) **"Company"** means 407 ETR Concession Company Limited, (formerly Ontario Transportation Capital Corporation), a corporation continued under the laws of the Province of Ontario;
- (w) **"Competition Act Approval"** means either:
 - (i) the issuance of an advance ruling certificate by the Director under Section 102(1) of the *Competition Act* (Canada) to the effect that he is satisfied that he would not have sufficient grounds upon which to apply to the Competition Tribunal for an order under Section 92 of the *Competition Act* (Canada) with respect to the transactions contemplated by this Agreement, without such certificate having been withdrawn; or
 - (ii) the expiry of the waiting period under Section 123 of the *Competition Act* (Canada) in circumstances in which neither the Purchaser nor the Vendor shall have been advised in writing by the Director that:
 - (A) the Director has determined to make an application for an Order under Section 92 or 100 of the *Competition Act* (Canada) in respect of the transactions contemplated by this Agreement or to commence an inquiry in respect of such transactions under Section 10 of the *Competition Act* (Canada); or
 - (B) an application under Section 9 of the *Competition Act* (Canada) has been made to the Director in respect of the transactions contemplated by this Agreement which, in the reasonable opinion of the Vendor, would have a material adverse effect on the Business.
- (x) **"Concession Agreement"** has the meaning set out in Section 6.1.3;
- (y) **"Confidentiality Agreements"** means the confidentiality agreements executed and delivered to the Vendor by the Purchaser and each Equity Participant as part of the Bid Process;
- (z) **"Consents"** means all material consents or approvals from any Person necessary to permit the completion of the transactions contemplated by this Agreement;
- (aa) **"Continuance Date"** means April 6, 1999, the date upon which the certificate of continuance was issued under the OBCA, continuing OTCC as a corporation under the OBCA;
- (ab) **"Current Assets"** means, at any given time, cash, Accounts Receivable, pre-paid expenses and any other asset of the Company that would be classified as a current asset in

accordance with generally accepted accounting principles, consistently applied, provided that a pre-paid expense of the Company shall only be a current asset to the extent the Company would receive the benefit of such pre-paid expense after the Closing;

- (ac) "Current Liabilities" means, at any given time, liabilities and accruals of the Company which would be classified as current liabilities in accordance with generally accepted accounting principles consistently applied, including amounts due and payable to trade creditors, and pursuant to the contracts listed in Schedule 4.1(ad) and the lease listed in Schedule 4.1(w), but does not include any contingent liability of the Company;
- (ad) "DDB Agreement" means the Development and Design Build Agreement made as of the 11th day of May 1994 among the OTCC, Canadian Highways International Corporation, Monenco Agra Inc., Dufferin Construction Company, a division of St. Lawrence Cement Inc., The Foundation Company Inc. and Armbro Holdings Inc., as the same may be supplemented, amended, restated or replaced from time to time;
- (ae) "Deposit" means the sum of \$250,000,000 paid by the Purchaser to the Vendor on the Execution Date;
- (af) "Direct Claim" means any Claim by an Indemnified Party against an Indemnifier which does not result from a Third Party Claim;
- (ag) "Director" means the Director of Investigation and Research appointed under the *Competition Act* (Canada);
- (ah) "Encumbrance" shall include any mortgage, deed of trust, lien, hypothec, pledge, charge, security interest, restriction, claim, encumbrance, deemed trust, right to use or acquire, ownership interest, action or demand of any nature whatsoever affecting the Assets or the Purchased Shares;
- (ai) "Environmental Laws" means all Applicable Laws relating in whole or in part to the protection of the environment and public health and safety, and includes those Applicable Laws relating to the storage, generation, use, handling, manufacture, processing, transportation, treatment, release and disposal of Hazardous Substances;
- (aj) "ETA" means Part IX of the *Excise Tax Act* (Canada);
- (ak) "Execution Date" means the date on which the last Party has executed this Agreement;
- (al) "Equity Participants" means those Persons, other than the Vendor and the Purchaser, listed as parties to this Agreement and who have signed this Agreement;
- (am) "Ex-Juris Party" shall have the meaning ascribed thereto in Section 9.7;
- (an) "Governmental Authority" means any Canadian government whether federal, provincial, or municipal and any foreign government, whether national, federal, state,

provincial or municipal, any court and any governmental agency, governmental authority, governmental tribunal or governmental commission of any kind whatever;

- (ao) "GST" means all goods and services taxes levied, assessed, rated or charged by the Government of Canada pursuant to the ETA upon the Company;
- (ap) "Hazardous Substance" means any pollutant, contaminant, waste, hazardous substance, hazardous material, toxic substance, dangerous substance or dangerous good as defined or identified in any Environmental Law;
- (aq) "Highway 407 Act" means the *Highway 407 Act, 1998 S. O. 1998, c. 28*, passed by the Legislature of the Province of Ontario on December 10, 1998 and which received Royal Assent on December 18, 1998;
- (ar) "Highway 407 Central" means that portion of Highway 407 from Highway 48 to the junction with Highway 403 in the vicinity of the boundary between Mississauga and Oakville, as more particularly described in Schedule 1.1(ar);
- (as) "Highway 407 East Partial" "Highway 407 East Completion" and Highway 407 West" have the respective meanings assigned to those terms by the CIM;
- (at) "Highway 407 Lands" means the "Highway 407 lands" referred to in the Highway 407 Act and as defined by O. Regulation 217/99 and as may be further defined by regulation under the Highway 407 Act;
- (au) "Highway Improvements" means all improvements, paving, landscaping, signage (including all toll road entry and exit signage), chattels, materials, supplies, appurtenances and fixtures forming part of or located in, on, under or upon the Highway 407 Lands and including all buildings, erections and structures, whether temporary or permanent, erected or located in, on or under the Highway 407 Lands, including any weigh scale sites and tangible property comprising part of the tolling system and related equipment forming a part thereof, as at the Time of Closing;
- (av) "Indemnifier" means any Party obligated to provide indemnification under this Agreement;
- (aw) "Indemnified Party" means any Party entitled to indemnification under this Agreement;
- (ax) "Indemnity Payment" means any amount of Loss required to be paid pursuant to Sections 7.1 and 7.2;
- (ay) "Intellectual Property" means:
 - (i) the rights of the Company under the Trade Mark Licence Agreement;
 - (ii) all copyright of the Company, whether registered or not;
 - (iii) all trade secrets and confidential information of the Company;

- (iv) all computer software owned by or licensed to the Company;
 - (v) all information of a scientific, technical or business nature whether in oral, written, graphic, machine readable, electronic or physical form owned by or licensed to the Company; and
 - (vi) all patterns, plans, designs, research data, research plans, trade secrets and the proprietary know-how, processes, formulas, drawings, technology, computer software and related manuals, unpatented blue prints, flow sheets, equipment and parts lists, instructions, manuals, records and procedures owned by or licensed to the Company;
- (az) "Loss" means any and all loss, liability, damage, cost, penalty, charge or expense actually suffered or incurred by a Party resulting from the subject matter of any Claim, including the costs and expenses of any action, suit, proceeding, arbitration, demand, assessment, reassessment, Order, settlement or compromise relating thereto, but
- (i) excluding special, indirect and consequential damages and excluding any contingent liability until it becomes actual;
 - (ii) reduced by any net Tax benefit to the Indemnified Party; and
 - (iii) reduced by any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person;
- (ba) "OBCA" means the *Business Corporations Act*, R.S.O. 1990, c. B. 16, as amended and the regulations thereunder and unless otherwise specified means such Act and such regulations as hereafter amended or restated and any successor legislation of comparable effect;
- (bb) "Operations Centre" means the building located at 6300 Steeles Avenue West in the Town of Vaughan, Ontario used primarily for activities relating to (i) the control, management or monitoring of Highway 407 Central; and (ii) the electronic tolling system on Highway 407 Central;
- (bc) "Operations Centre Licence" means the licence of the Operations Centre Lands dated as of April 7, 1997, granted by the Company to Canadian Highways Management Corporation;
- (bd) "Operations Centre Lands" means that part of Lot 1 Concession 9 in the Town of Vaughan, Region of York, designated as parts 1, 2 and 3 of Reference Plan 65R-16967 and any other lands upon which an Operations Centre is constructed;
- (be) "Order" means any order, judgment, injunction, decree, award or writ of any court, tribunal arbitrator, Governmental Authority, or other Person having jurisdiction;

- (bf) "OTCC" means Ontario Transportation Capital Corporation, the predecessor to the Company, which was incorporated pursuant to the *Capital Investment Plan Act, 1993 S. O. 1993 c.23*;
- (bg) "Party" means a party to this Agreement and "Parties" means all of them;
- (bh) "Patrol Yard Lands" means that part of Lot 1, Concession 9 in the Town of Vaughan, Region of York on which a patrol yard is situated and that part of Lot 10, Concession 9 in the Town of Milton, Regional Municipality of Halton on which a patrol yard is situated, and any other lands on which a patrol yard is situated;
- (bi) "Patrol Yard Licence" means the licence of the Patrol Yard Lands dated as April 7, 1997 granted by the Company to Canadian Highways Management Corporation;
- (bj) "Permitted Encumbrances" means:
- (i) inchoate or statutory liens for Taxes or utility rates or charges not at the time overdue;
 - (ii) inchoate or statutory liens for overdue Taxes or utility rates or charges the validity or amount of which the Company is contesting in good faith, but only for so long as such contestation effectively postpones enforcement of any such liens;
 - (iii) statutory liens incurred or deposits made in the ordinary course of the Business in connection with worker's compensation, employment insurance and similar legislation;
 - (iv) security given by the Company to a public utility or any Governmental Authority when required in the ordinary course of operating the Business;
 - (v) construction or repair or storage liens arising in the ordinary course of the Business for sums which are not overdue or the validity or amount of which the Company is contesting in good faith but only for so long as such contestation effectively postpones enforcement of any such liens;
 - (vi) easements and any registered restrictions or covenants that run with the Highway 407 Lands, the Operations Centre Lands or the Patrol Yard Lands provided they have been complied with and do not in the aggregate materially and adversely affect the ability of the Company to use the affected land in accordance with the provisions of the Concession Agreement;
 - (vii) easements, rights of way for, or reservations or rights of others relating to, sewers, water lines, gas lines, pipelines, electric lines, cable television, telegraph and telephone lines, telecommunications services and other similar products or services, provided that they do not in the aggregate materially and adversely affect the ability of the Company to use the affected land in accordance with the provisions of the Concession Agreement;

- (viii) zoning by-laws, ordinances or the restrictions as to the use of real property, and agreements with other Persons registered against title to the Highway 407 Lands, the Operations Centre Lands or the Patrol Yard Lands, provided that they do not materially and adversely affect the ability of the Company to use the affected land in accordance with the provisions of the Concession Agreement;
- (ix) any discrepancies or encroachments that up-to-date surveys of the Highway 407 Lands might reveal so long as they do not have a material adverse effect on the ability of the Company to use the affected land in accordance with the provisions of the Concession Agreement; and
- (x) the Operations Centre Licence and the Patrol Yard Licence;
- (bk) "Person" includes an individual, corporation, partnership, joint venture, association, trustee, trust, unincorporated association, organization, syndicate, executor, administrator, the Crown, any Governmental Authority, or other legal or personal representative and pronouns have a similarly extended meaning;
- (bl) "Pro-Forma Balance Sheet" means the pro forma balance sheet of the Company as at December 31, 1998 set out in Schedule 1.1(bl);
- (bm) "Pro Forma Working Capital" means the total of Current Assets as shown on the Pro Forma Balance Sheet minus the total of Current Liabilities shown on the Pro Forma Balance Sheet;
- (bn) "Purchased Employees" means the employees listed in Schedule 4.1(af);
- (bo) "Purchased Shares" means all of the issued and outstanding shares in the capital of the Company;
- (bp) "Purchase Price" shall have the meaning ascribed thereto in Section 2.2;
- (bq) "Purchaser" means 1346292 Ontario Inc.;
- (br) "Qualifying Loss" means any Loss in excess of \$10,000 arising as a result of any particular misrepresentation or breach of warranty by any Party;
- (bs) "Representative" means each director, officer, minister, employee, agent, solicitor, accountant, professional advisor and other representative of an Indemnified Party;
- (bt) "Restriction on Transfer Agreement" means the agreement in the form of Schedule 1.1(bt) between the Vendor, the Company, the Purchaser and the Equity Participants;
- (bu) "Systems" has the meaning ascribed thereto in Section 7.1.2;
- (bv) "Tax" means all governmental taxes, levies, duties, assessments, reassessments and other charges of any nature whatsoever, whether direct or indirect, including income tax, profits tax, gross receipts tax, corporation tax, commodity tax, sales and use tax, wage tax,

payroll tax, worker's compensation levy, employer health tax, capital tax, stamp duty, real and personal property tax, land transfer tax, customs or excise duty, excise tax, GST, turnover or value added tax on goods sold or services rendered, withholding tax, Canada pension plan, social security and employment insurance charges or retirement contributions, and any interest, fines, additions to tax and penalties thereon;

- (bw) "Tax Act" means the *Income Tax Act* (Canada) R.S.C. 1985, Fifth Supplement and the regulations thereunder, as amended;
- (bx) "Team Member" has the meaning set forth in the CIM;
- (by) "Third Party Claim" means any Claim asserted against an Indemnified Party by any Person who is not a Party or an affiliate of such a Party and includes any Claims in respect of the contingent liabilities set out in Schedule 4.1(ae);
- (bz) "Time of Closing" means 11:00 a.m. on the Closing Date or such other time on that date as the Parties agree in writing that the Closing shall take place;
- (ca) "Toll System" means the tolling system and related equipment for Highway 407 Central located in, on, under and upon the Highway 407 Lands and the Operation Centre Lands on the Closing Date;
- (cb) "Trade Mark Licence Agreement" means the trademark licence agreement dated April 6, 1999, between the Company and The Crown in Right of Ontario as represented by the Minister of Transportation respecting, *inter alia*, the trade mark "ETR" and the "ETR" logo;
- (cc) "TSSA" means collectively, the toll system supply agreement made as of August 31, 1995, as amended, among OTCC, Canadian Highways International Corporation, Hughes Aircraft of Canada Limited, Hughes Aircraft Company, Bell Canada and Bell Sygma and the Mark IV electronic toll equipment supply agreement made as of August 31, 1995, as amended, among OTCC, Mark IV Industries Ltd., Hughes Aircraft of Canada Ltd. and Canadian Highways International Corporation; and
- (cd) "Y2K Ready" has the meaning ascribed thereto in Section 7.1.2.

1.2 Construction

In this Agreement:

- (a) words in the singular include the plural and vice versa, and words in one gender include all genders;
- (b) the words "include", "includes" or "including" mean "include without limitation", "includes without limitation" and "including without limitation", respectively and the words following "include", "includes" or "including" shall not be considered to set forth an exhaustive list;

- (c) the words "hereto", "herein", "hereof", "hereby" and "hereunder" and similar expressions refer to this Agreement and not to any particular section or portion of it;
- (d) references to "ordinary course" when used in relation to the conduct of the Business means any transaction which constitutes an ordinary day-to-day business activity of the Company conducted in a commercially reasonable and businesslike manner consistent with the Company's past practices;
- (e) references to an Article, Section, Subsection or Schedule refer to the applicable articles, section, subsection or schedule of this Agreement;
- (f) unless specified otherwise, any reference in this Agreement to a statute refers to that statute as in force at the date hereof and as the same may be amended, re-enacted, consolidated and/or replaced from time to time, and any successor statute thereto, and a reference to a statute shall be deemed to include any regulations made thereunder;
- (g) the division of this Agreement into Articles, sections and other subdivisions is for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and they shall not to be considered a part of this Agreement;
- (h) all dollar amounts are expressed in Canadian funds;
- (i) any tender of documents under this Agreement may be made by and upon the Parties or their respective counsel;
- (j) any tender of money under this Agreement shall be made upon the Parties or their respective counsel and shall be tendered by bank draft drawn upon an Approved Bank or by wire transfer of immediately available funds payable at par in Canadian funds in Toronto, Ontario;
- (k) if any action is required to be taken pursuant to this Agreement on or by a specified date which is not a Business Day, then such action shall be valid if taken on or by the next succeeding Business Day;
- (l) a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Toronto time) on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall terminate at 5:00 p.m. (Toronto time) on the next Business Day; and
- (m) a reference in this Agreement to any agreement or document (including, for avoidance of doubt, this Agreement) refers (subject to all relevant approvals) to that agreement or document as amended, supplemented, restated, substituted, replaced, novated or assigned.

1.3 Accounting Principles

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be the Canadian generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants (or any successor institute) applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles, unless otherwise expressly provided. All accounting and financial terms used herein, unless specifically provided to the contrary, shall be interpreted and applied in accordance with generally accepted accounting principles.

1.4 Schedules

The following are the Schedules annexed hereto, incorporated by reference herein and deemed to be part of this Agreement:

Schedule 1.1(ar)	Description of Highway 407 Central
Schedule 1.1(bl)	Pro-Forma Balance Sheet
Schedule 1.1(bt)	Restriction on Transfer Agreement
Schedule 4.1(i)	Consents
Schedule 4.1(o)(i)	Historical Traffic Data
Schedule 4.1(o)(ii)	Historical Revenue Data
Schedule 4.1(w)	Lease of Real Property
Schedule 4.1(ab)	Insurance
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Schedule 6.1.3	Form of Concession Agreement
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Schedule 6.3.4	Legal Opinion of Counsel to Purchaser and Equity Participants
Schedule 8.5	Rules of Procedure for Arbitration

ARTICLE 2 PURCHASE AND SALE OF PURCHASED SHARES

2.1 Purchase and Sale of Purchased Shares

Subject to the terms and conditions of this Agreement, but effective at the Time of Closing, the Vendor shall sell the Purchased Shares to the Purchaser, and the Purchaser shall purchase the Purchased Shares from the Vendor.

2.2 Consideration

Subject to any adjustments to be made pursuant to Section 2.4, the consideration to be paid by the Purchaser for the Purchased Shares shall be Three Billion One Hundred and

Seven Million Dollars (\$3,107,000,000) (the "**Purchase Price**"). Subject to Section 2.4, the Purchaser shall pay the Purchase Price to the Vendor at the Time of Closing in full satisfaction of the Purchase Price. All interest earned on the Deposit pursuant to Section 2.5 shall be applied by the Vendor for the benefit of the Purchaser, against the amount of the Purchase Price if the Closing occurs.

2.3 Post Closing Audit

- (a) Forthwith following the Closing, the Vendor, at the Vendor's expense, shall cause its accounting advisors, KPMG LLP, to calculate the Closing Working Capital in accordance with generally accepted accounting principles, applied in a consistent manner and taking into account the assumptions and methods used in the preparation of the Pro Forma Balance Sheet. The value of the Accounts Receivable at the Time of Closing shall be the face amount thereof, less a reasonable allowance for uncollectability determined in accordance with generally accepted accounting principles, consistently applied.
- (b) The Vendor shall ensure that its accounting advisors reasonably cooperate with the Purchaser's auditor in making such calculation and that copies of all working papers of the Vendor's accounting advisors are promptly given to the Purchaser's auditor for review and that representatives of the Purchaser or the Purchaser's auditors are permitted to be present at and to participate in any inventory counts and any other procedures used in calculating the Closing Working Capital, provided such representatives or auditors of the Purchaser make themselves reasonably available. A copy of the calculation of Closing Working Capital resulting from such audit shall be delivered to each Party within sixty (60) days of the Closing Date. A draft of such calculation of Closing Working Capital shall be delivered to the Purchaser and its auditor at least fifteen (15) days prior to the end of such sixty (60) day period and the Vendor shall, and shall cause its accounting advisors to, if so requested by the Purchaser, meet with the Purchaser and the Purchaser's auditor at reasonable time or times forthwith thereafter to review such calculation of Closing Working Capital as soon as reasonably possible within such period.

2.4 Purchase Price Adjustment

On the Adjustment Date, the Purchase Price shall be adjusted by adding to the Purchase Price the excess, if any, of the Closing Working Capital over the Pro Forma Working Capital or by deducting from the Purchase Price the excess, if any, of the Pro Forma Working Capital over the Closing Working Capital, all on a dollar for dollar basis. Any amount to be paid by one Party to the other as an increase to or a reduction of the Purchase Price shall be paid on the Adjustment Date together with interest at the Bank Rate from the Closing Date to the date of payment.

2.5 Deposit

The Vendor acknowledges receipt from the Purchaser of the Deposit to be held by the Vendor in accordance with the terms of this Agreement. The Vendor shall place the Deposit in an interest-bearing trust account pending Closing. If the Closing does not occur on the Closing Date because

- (i) any condition set forth Section 6.3 or Section 6.4 is not satisfied; and
- (ii) the Vendor terminates this Agreement pursuant to Section 6.6; and
- (iii) the Purchaser is not released from its obligations hereunder pursuant to Section 6.6(b),

then the Vendor shall be entitled to retain the Deposit and all interest earned thereon, without prejudice to any other rights or remedies which the Vendor may have against the Purchaser under this Agreement. Otherwise, the Purchaser shall be entitled to the return of the Deposit and all interest earned thereon.

2.6 Disputes

If either the Vendor or the Purchaser disputes any item in the calculation of Closing Working Capital which could result in an adjustment to the Purchase Price, it shall give notice to the other of such dispute on or before the Adjustment Date. In such event, the matter in dispute shall be referred to the dispute resolution procedure set forth in Article 8 and payment of the respective balance due, if any, will be made forthwith after completion of such procedure. Interest shall accrue on any net amount to be paid pursuant to Section 2.4 from the Closing Date until the date of payment at the Bank Rate.

ARTICLE 3 CLOSING ARRANGEMENTS

3.1 Place of Closing

The closing shall take place at the Time of Closing at the offices of Goodman Phillips & Vineberg, 250 Yonge Street, Suite 2400, Toronto, Ontario M5B 2M6, or at such other place as may be agreed upon in writing by the Purchaser and the Vendor.

3.2 Delivery of Certificates

At the Time of Closing, the Vendor shall transfer and deliver to the Purchaser share certificates representing the Purchased Shares duly endorsed in blank for transfer or accompanied by irrevocable security transfer powers of attorney duly executed in blank and shall take such steps as shall be necessary to cause the Company to approve the transfer of the Purchased Shares from the Vendor to the Purchaser, to enter the Purchaser upon the books of the Company as the holder of all of the Purchased Shares and to issue one share certificate to the Purchaser representing the Purchased Shares.

3.3 Closing Payment

Subject to Sections 2.4 and 2.5, at the Time of Closing the Purchaser shall pay to the Vendor the Purchase Price in full satisfaction of the Purchase Price, all in accordance with instructions provided by the Vendor and in accordance with Section 1.2(j).

3.4 Delivery of Documents

At the Time of Closing, the Vendor shall deliver to the Purchaser, and the Purchaser and the Equity Participants shall deliver to the Vendor, all agreements, documents, certificates and opinions contemplated by this Agreement.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of the Vendor

The Vendor represents and warrants to the Purchaser as set out in the following subsections of this Section (and acknowledges that the Purchaser is relying on such representations and warranties in completing the transactions contemplated hereby).

- (a) **Company's Corporate Matters** - The Company is a corporation duly continued under the OBCA and validly subsisting under the laws of the Province of Ontario and has all necessary corporate power and capacity to own, lease or dispose of its property and assets and to carry on the Business as now conducted by it.
- (b) **Vendor's Matters** - The Vendor has all necessary power, authority and capacity to enter into this Agreement and to perform its obligations hereunder.
- (c) **Private Company** - The Company is a private company (as that term is defined in the *Securities Act* (Ontario)). Neither the nature of the Business nor the location or character of the assets owned or leased by the Company requires the Company to be registered, licensed or otherwise qualified in any jurisdiction other than Ontario.
- (d) **Authorization of Agreement** - This Agreement has been duly authorized, executed and delivered by the Vendor, and constitutes a legal, valid and binding obligation of the Vendor, enforceable against it in accordance with its terms (subject, however, to limitations with respect to the enforcement of remedies, to bankruptcy, reorganization, insolvency, moratorium and other laws relating to or affecting creditors' rights generally and to the availability of equitable remedies such as specific performance and injunction and to limitations of general application respecting the enforcement of claims against The Crown in Right of Ontario).

- (e) **Constatng Documents** - A true copy of the Articles and the By-laws have been delivered or made available to the Purchaser by the Vendor on or before the Execution Date. The Articles and the By-laws constitute all of the constating documents and by-laws of the Company enacted since the Continuance Date.
- (f) **Corporate Records** - The original or true copies of all corporate records of the Company from the Continuance Date have been delivered or made available to the Purchaser's solicitors for review prior to the Execution Date. Such corporate records contain complete and accurate:
 - (i) minutes of all meetings of the directors, any committee thereof and the shareholder of the Company held from the Continuance Date to the Execution Date under the OBCA;
 - (ii) originals of all resolutions of the directors, any committee thereof and the shareholder of the Company held from the Continuance Date to the Execution Date under the OBCA; and
 - (iii) all waivers, notices and other documents required by law to be contained therein, and reflect all actions taken and resolutions passed by the directors and the shareholder of the Company since held from the Continuance Date to the Execution Date under the OBCA;

All resolutions contained in such records have been duly passed and all such meetings have been duly called and held. The share certificate books, register of shareholders and register of transfer of the Company are complete and accurate in all material respects.

- (g) **Books and Records** - True copies of the Books and Records have been delivered or made available to the Purchaser's Representatives for review. All material financial transactions relating to the Business have been recorded in such Books and Records.
- (h) **Validity of Transactions** - The execution and delivery of this Agreement by the Vendor, the consummation of the transactions contemplated hereby and the fulfilment by the Vendor of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Company under
 - (i) Applicable Law;
 - (ii) any Order of any Governmental Authority, court, tribunal, instrumentality or arbitrator, which is presently applicable to the Company; or
 - (iii) the Articles or the By-laws; or

- (iv) any material agreement, instrument or document to which the Company is a party or by which it is bound.
- (i) **Consents** - Except as set out in Schedule 4.1(i), no Consent is required to be obtained by the Vendor prior to the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby.
- (j) **Authorized and Issued Capital** - The authorized share capital of the Company consists of an unlimited number of one class of shares without par value designated as common shares under the Articles, of which 1,000,001 common shares are issued and outstanding. The issued and outstanding shares in the capital of the Company have been duly and validly issued, and are issued and outstanding as fully paid and non-assessable shares. There are no outstanding securities convertible into or exchangeable or exercisable for any shares of the capital stock of the Company. There are no outstanding rights to subscribe for or to purchase, or any options for the purchase of, or any agreements providing for the issuance of, any shares of its capital stock or any securities convertible into or exchangeable or exercisable for any shares of the Company's capital stock. The Purchased Shares constitute all of the issued and outstanding shares in the capital of the Company.
- (k) **Ownership of Shares** - The Vendor is the sole legal and beneficial owner of and has good title to the Purchased Shares, free and clear of all Encumbrances (other than the rights of the Purchaser hereunder). There is no agreement, contract, option, commitment, right of privilege or other right of another binding upon, or which at any time in the future may become binding upon, the Vendor to sell, transfer, assign, pledge, subject to lien, charge, grant a security interest in, mortgage or in any other way dispose of or encumber any of the Purchased Shares, other than pursuant to this Agreement.
- (l) **No Subsidiaries** - The Company has no subsidiaries and does not own or have any interest in any shares of any other corporation.
- (m) **Compliance with Law** - The Company has conducted and is conducting the Business in compliance, in all material respects, with all material Applicable Laws and the Company is not in breach of any material Applicable Law which would have a material adverse effect on the Business.
- (n) **Pro Forma Balance Sheet** - The Pro Forma Balance Sheet, when read in conjunction with the balance sheet of the Company at March 31, 1998 and the balance sheet of the Company at December 31, 1998, presents fairly, in all material respects, the assets and the liabilities of the Company as at the date thereof after giving effect to the proposed transactions described in note 2 to the Pro Forma Balance Sheet, in accordance with generally accepted accounting principles, it being understood that certain contingent liabilities are disclosed in notes to the Pro Forma Balance Sheet as opposed to being recorded as liabilities.

(o) **Historical Traffic and Revenue Data -**

- (i) the traffic reports attached hereto as Schedule 4.1(o)(i) present fairly, in all material respects, the traffic volumes of Highway 407 Central for the period from October, 1997 to February 28, 1999; and
- (ii) the revenue reports attached hereto as Schedule 4.1(o)(ii) present fairly, in all material respects, the revenues associated with Highway 407 Central for the period from October, 1997 to February 28, 1999.

(p) **Absence of Undisclosed Liabilities -** As at the Time of Closing, except for liabilities owed to trade creditors payable in the ordinary course of business and liabilities set out in the Pro-Forma Balance Sheet, liabilities for Taxes incurred in the ordinary course of business and those liabilities described in the Schedules hereto or in the agreements, and other documents referred to in such Schedules, the Company does not have any material liabilities.

(q) **Absence of Changes -** Between the date of the Pro Forma Balance Sheet and the Execution Date, there has not been:

- (i) any material adverse change in the financial condition, assets, liabilities, operations, or earnings of the Company other than changes in the ordinary course of business; or
- (ii) any damage, destruction or loss, which has had a material adverse affect on the Business or the Assets, other than those which occurred in the ordinary course of business.

(r) **Absence of Guarantees -** The Company has not given or agreed to give, nor is a party to or bound by, any guarantee of indebtedness, indemnity, bond or suretyship or other obligation of any Person.

(s) **Title to Assets -** The Company has, or at Time of Closing shall have, good title to all of its Assets, free and clear from all Encumbrances other than Permitted Encumbrances. There is no agreement, contract, option, commitment, right, privilege or other right of another binding upon, or which at any time in the future may become binding upon, the Company to sell, transfer, convey, subject to lien, charge, grant a security interest in, or in any other way dispose of or encumber any of the Assets.

(t) **Highway Improvements -** Highway 407 Central was designed and constructed by Canadian Highways International Corporation pursuant to the DDB Agreement with quality control and quality assurance audit provided by Delcan Corporation, an independent agent appointed pursuant to the DDB Agreement by the Company. All material reports and certificates of Delcan Corporation to the Company with respect to Highway 407 Central have been made available to the Purchaser or its

Representatives for review. The Vendor has no reason to believe that the information contained in such reports or certificates is incorrect in any material respect.

- (u) **Toll System** - The Toll System was supplied pursuant to the TSSA. The Company has received daily reports from Advanced Toll Management Corp. as to the operation of the Toll System. Copies of all reports issued since January 1, 1998 have been provided to or made available to the Purchaser for review. The Vendor has no reason to believe that such reports contain information that is incorrect in any material respect.

- (v) **Real Property** -
 - (i) The Lieutenant Governor in Council has defined the Highway 407 Lands pursuant to Ontario Regulation 217/99 passed pursuant to Section 1(2) of the 407 Act.
 - (ii) The Vendor has the right and authority to lease the Highway 407 Lands, the Operations Centre Lands and the Patrol Yard Lands pursuant to the Concession Agreement.
 - (iii) Other than the Concession Agreement, the Operations Centre Licence and the Patrol Yard Licence, and the lease referred to in Schedule 4.1(w), the Company is not and will not at the Time of Closing be a party to or bound by any lease, license or other arrangement relating to real property which is material to the operation of the Business. The Company has not entered into any other arrangement relating to real property.

- (w) **Lease** - All interests held by the Company under the lease referred to in Schedule 4.1(w) are free and clear from all Encumbrances other than Permitted Encumbrances.
 - (i) The lease referred to in Schedule 4.1(w) is in good standing and in full force and effect in all material respects without amendment (except as set out therein), and the Company is entitled to all benefits, rights and privileges thereunder.
 - (ii) All material amounts of rent and other amounts payable under the lease referred to in Schedule 4.1(w) have been paid when due and adequate provision has been made by the Company for all amounts of rent and other payments payable under the lease referred to in Schedule 4.1(w) accrued to the date hereof.
 - (iii) The Company is not in breach of its material obligations under the lease referred to in Schedule 4.1(w), and no act or event has occurred which, with notice or lapse of time, or both, would constitute a material breach thereof, in each case except as set out in Schedule 4.1(w).

- (x) **Authorizations.** The Company has all Authorizations necessary to conduct the Business in material compliance with all material Applicable Laws and the Vendor is not aware of any reason why such Authorizations could be terminated or materially adversely amended as a result of the conduct of the Business as it has been and is now conducted or by reason of the sale of the Purchased Shares to the Purchaser.
- (y) **Environmental Matters.** The Company has conducted and is conducting the Business in material compliance with all material Environmental Laws. To the knowledge of the Vendor, on the date hereof, there is no material amount of any Hazardous Substances in, on or under the Highway 407 Lands which form part of Highway 407 Central, Highway 407 West and Highway 407 East Partial, the Operations Centre Lands or the Patrol Yard Lands, except for Hazardous Substances (i) arising in the normal course of the construction, maintenance and operation of a controlled access highway in Ontario and (ii) Hazardous Substances discovered during the construction of Highway 407 Central near the Woodbine interchange which were permitted pursuant to applicable Environmental Laws, to be disposed of on Highway 407 Central.
- (z) **No Expropriation.** The Company has not received any notice of expropriation of all or any of the Assets and there are no expropriation proceedings pending or threatened against or adversely affecting the Assets nor is the Vendor aware of any discussions or negotiations which could lead to any such expropriation.
- (aa) **Leases of Personal Property -** There are no leases of personal property that are material to the operation of the Business; except for leases of transponders arising in the ordinary course of business.
- (ab) **Insurance -** The Company has insured the Business and the Assets of the Company as set forth in Schedule 4.1(ab). Such insurance coverage shall be continued in full force and effect (with all premiums paid) up to and including the Closing Date. The Company is not in default, whether as to the payment of premiums or otherwise, under the provisions contained in any insurance policy identified in Schedule 4.1(ab) and has not failed to give any notice or present any claim under any such insurance policy in due and timely fashion. Nothing has been done or omitted to be done by the Company which could make any policy of insurance void or voidable.
- (ac) **Intellectual Property -**
 - (i) All registrations and filings necessary to preserve the rights of the Company in and to the Intellectual Property have been made.
 - (ii) There has been no material infringement, passing-off, interference with or violation of the Company's rights in and to the Intellectual Property, nor any claim of adverse ownership, invalidity or other opposition to or conflict with any of the Intellectual Property.

- (ad) **Material Contracts** - Except for the lease, licenses of occupation and agreements referred to in Schedule 4.1(ad) and Schedule 4.1(w), the Company is not a party to or bound by any contract, agreement, lease or commitment, whether oral or written which is material to the operation of the Business. Each such agreement referred to in Schedule 4.1(ad) is in full force and effect in all material respects without amendment except as described in such Schedules. True copies of such agreements have been made available for review by the Purchaser or its Representatives. Except as stated in Schedule 4.1(ad) or Schedule 4.1(w),
- (i) the Company is not in material breach of its obligations under any such agreement or lease, and no act or event has occurred which, with notice or lapse of time, or both, would constitute a material breach thereof; and
 - (ii) to the knowledge of the Vendor no other party to any such agreement or lease is in material breach of its obligations under any such agreement or lease, and no act or event has occurred with respect to any such party, which with notice or lapse of time, or both, would constitute a material breach thereof.
- (ae) **Litigation** - Except as set out in Schedule 4.1(ae), there is no material claim, suit, action, cause of action, dispute, civil or criminal litigation, arbitration, legal, administrative or other proceeding, Order or governmental investigation, including appeals and applications for review, in progress, or to the knowledge of the Vendor, pending or threatened, against the Company or relating to the Business, the Purchased Shares or the Assets.
- (af) **Employees** - The only employees of the Company at the Time of Closing will be those employees listed on Schedule 4.1(af) (the "Purchased Employees"). The terms of employment of the Purchased Employees are set forth on Schedule 4.1(af). Except as set forth in such schedule, the Company will at the Time of Closing have no obligations of any kind to any individual with respect to employment by the Company or the Vendor.
- (ag) **Brokers** - Neither the Purchaser nor the Equity Participants will be liable for any brokerage commission, finder's fee or other similar payment in connection with the transaction contemplated by this Agreement because of any agreement or understanding reached by the Vendor or the Company.
- (ah) **Tax Status.** - The Vendor is not a non-resident of Canada within the meaning of the Tax Act.

4.2 Representations and Warranties of the Purchaser and Equity Participants

4.2.1 The Purchaser and the Equity Participants hereby jointly and severally represent and warrant to the Vendor with respect to any matters relating to the Purchaser in this Section 4.2.1 and severally represent and warrant with respect to any matters relating to themselves (and

acknowledge that the Vendor is relying on such representations and warranties in completing the transactions contemplated hereby) as follows.

- (a) **Corporate Matters** - Each of the Equity Participants and the Purchaser is a corporation duly incorporated and organized and is validly subsisting under the laws of its jurisdiction of incorporation, amalgamation or continuance, as the case may be, and has all necessary corporate power, authority and capacity to enter into this Agreement and to perform its obligations hereunder. The Equity Participants are, directly or indirectly, the only beneficial owners of shares carrying or representing at least 20% of the Voting Power (as that term is defined in the Restriction on Transfer Agreement) of the Purchaser as follows:

SNC 26.92%

Cintra 58.46%

Ferrovial 14.62% directly and a portion of Cintra's 58.46%, indirectly through its ownership of shares of Cintra carrying a majority of the Voting Power of Cintra;

- (b) **Authorization of Agreement** - This Agreement has been duly authorized, executed and delivered by the Purchaser and each of the Equity Participants and constitutes a legal, valid and binding obligation of the Purchaser and each of the Equity Participants enforceable against it in accordance with its terms (subject, however, to limitations with respect to the enforcement of remedies, to bankruptcy, reorganization, insolvency, moratorium and other laws relating to or affecting creditors' rights generally and subject to the availability of equitable remedies such as specific performance and injunction).

- (c) **Validity of Transactions** - The execution and delivery of this Agreement by the Purchaser and each of the Equity Participants, the consummation of the transactions contemplated hereby and the fulfilment by the Purchaser and each of the Equity Participants of the terms, conditions and provisions hereof has not and will not contravene or violate or result in the breach (with or without the giving of notice or lapse of time, or both) or acceleration of any obligations of the Purchaser and each of the Equity Participants under:

- (i) the laws applicable to the Purchaser and each of the Equity Participants, as applicable;
- (ii) any Order of any court, tribunal, instrumentality or arbitrator which is presently applicable to the Purchaser and each of the Equity Participants, as applicable;
- (iii) the articles, by-laws of the Purchaser and each of the Equity Participants, as applicable; or

- (iv) the provisions of any material agreement, instrument or document to which the Purchaser or an Equity Participant, as applicable, is a party or by which it is bound.
- (d) **Approvals of Governmental Authorities** - Except for the Competition Act Approval, no approval or authorization of any applicable regulatory authority or Governmental Authority is required to be obtained by the Purchaser or the Equity Participants prior to the consummation of the transactions contemplated hereby.
- (e) **Bid Process** - Each of the Equity Participants and the Purchaser has complied in all respects with the terms and provisions of the Bid Process and the Confidentiality Agreements and all information provided by the Purchaser and the Equity Participants to the Vendor pursuant to or in connection with the Bid Process is complete and accurate.
- (f) **Brokers** - The Vendor will not be liable for any brokerage commission or finder's fee or other similar payment in connection with the transactions contemplated by this Agreement because of any agreement or understanding reached by the Purchaser or any Equity Participant.
- (g) **Consents** - Except for the Competition Act Approval, no Consent is required to be obtained by the Purchaser or by any Equity Participant prior to the consummation of the transactions contemplated hereby.

4.2.2 The Purchaser represents and warrants to the Vendor (and acknowledges that the Vendor is relying on such representation and warranty in entering into this Agreement and completing the transactions contemplated hereby) that the Purchaser has arranged financing, subject to normal commercial conditions, to permit it to pay the Purchase Price in full on Closing.

4.3 Non-Waiver

Subject to the provisions of Section 4.4, no investigations made by or on behalf of any Party at any time shall have the effect of waiving, diminishing the scope of or otherwise affecting any representation or warranty made by the other Parties herein or pursuant hereto. No waiver by a Party of any condition, in whole or in part, shall operate as a waiver of any other condition.

4.4 Qualification of Representations and Warranties

The representations and warranties of the Vendor set forth in Sections 4.1(g), (h)(iv), (o), (t), (y), (ac), and (ad) are qualified by information known by or disclosed to the Purchaser or the Equity Participants prior to the Execution Date or disclosed to the Purchaser or the Equity Participants in this Agreement or in any document or agreement referred to in this Agreement. Any disclosure of information in this Agreement or in any document or agreement referred to in this Agreement by a Party, including by way of cross-reference to other documents, shall qualify all of the representations and warranties of such Party in this Agreement, even if such disclosure is made in respect of a particular representation or warranty.

4.5 Survival of Vendor's Representations and Warranties

The representations and warranties of the Vendor contained in this Agreement shall survive the Closing and continue in full force and effect for the benefit of the Purchaser and each Equity Participant as follows:

- (a) as to the representations and warranties contained in Subsection 4.1(j) (k) and (s) of this Agreement, without time limit; and
- (b) as to all other matters, for a period of two years following the Closing unless a *bona fide* notice of a Claim shall have been given, in writing in accordance with Section 7.4 or 7.8, prior to the expiry of that period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final determination or settlement of that Claim, provided such determination or settlement is being pursued diligently and in good faith by the applicable Party.

4.6 Survival of Purchaser's Representations and Warranties

The representations and warranties of the Purchaser and the Equity Participants contained in this Agreement shall survive the Closing and continue in full force and effect for the benefit of the Vendor for a period of two years following the Closing unless a *bona fide* notice of a Claim shall have been given, in writing in accordance with Section 7.4 or 7.8, before the expiry of that period, in which case the representation and warranty to which such notice applies shall survive in respect of that Claim until the final determination or settlement of that Claim, provided such determination or settlement is being pursued diligently and in good faith by the applicable Party.

4.7 Survival for Fraud, etc.

A Claim by a Party for any breach of any of the representations and warranties contained in this Agreement involving fraud or fraudulent misrepresentation may be made any time following the Closing Date, subject only to applicable limitation periods imposed by law.

4.8 Knowledge of the Seller

Where any representation or warranty contained in this Agreement is expressly qualified by reference to the actual "knowledge", "awareness" or "belief" of the Vendor, it shall be deemed to refer only to the knowledge, awareness or belief of the chief executive officer of the Company, without him having made any special enquiry into the subject matter of such representation or warranty.

ARTICLE 5 COVENANTS

5.1 Operations before Closing

Save as otherwise provided in this Agreement or the CIM, after the Execution Date and prior to the Time of Closing, the Vendor shall cause the Business and the affairs of the Company to be carried on in the ordinary course of business and shall use all reasonable efforts to preserve the goodwill of the Business and to maintain good business relationships with its customers. The Vendor shall ensure that the Company does not enter into any new contractual commitments of a material nature, agree to any amendments to existing contracts of a material nature or authorize any material capital expenditures without the approval of the Purchaser.

5.2 Pro Forma Balance Sheet

Except in respect of Current Assets and Current Liabilities (an adjustment for which is provided for in Section 2.4 of this Agreement), the Vendor shall cause such things to be done to ensure that, at the Time of Closing, the Pro Forma Balance Sheet presents fairly, in all material respects, the assets (other than Current Assets) and the liabilities of the Company (other than Current Liabilities and contingent liabilities not known to the Vendor on the Execution Date).

5.3 Continue Insurance

The Vendor shall continue in force all policies of insurance maintained by the Vendor or the Company in respect of the Company and shall present all claims of the Company under such policies in a due and timely manner up to the Time of Closing. On the Closing, all such policies of insurance shall terminate and the Purchaser shall be responsible for obtaining insurance for the Company and the Assets.

5.4 Compliance with Laws

Up to the Time of Closing, the Vendor shall cause the Company to comply in all material respects with the Authorizations and all material Applicable Laws affecting the Company and the operation of the Business, where the failure to so comply would have a material adverse effect on the Business.

5.5 Co-operation

The Parties shall co-operate with each other from the Execution Date up to the Time of Closing in order to permit the Closing to be consummated on the Closing Date.

5.6 Disclosure of Changes

Prior to the Closing Date:

- (a) the Vendor shall immediately disclose in writing to the Purchaser and the Equity Participants; and
- (b) the Purchaser and each Equity Participant shall immediately disclose to the Vendor;

any matter which becomes known to it which is inconsistent in any material respect with any of the representations or warranties contained in Article 4. No such disclosure, however, shall cure any misrepresentation or breach of warranty for the purposes of Article 6.

5.7 Injunctions

If any court or tribunal having jurisdiction over any of the Parties issues an injunction, decree or similar order before the Time of Closing which would prohibit or materially restrict or hinder the Closing, the Parties shall use their respective reasonable efforts to have such injunction, decree or order dissolved or otherwise eliminated as promptly as possible and, in any event, prior to the Time of Closing.

5.8 Restriction on Transfer Agreement

Each Party shall enter into the Restriction on Transfer Agreement concurrent with the execution of this Agreement.

5.9 Directors and Officers of Company

At the Time of Closing, the Vendor shall cause all directors and officers of the Company to submit:

- (a) a resignation from all positions with the Company; and
- (b) a release of all claims against the Company up to the Time of Closing except for any matters for which such director is entitled to indemnity under the by-laws of the Company and any insurance related thereto.

5.10 Competition Act Approval

The Vendor shall have principal responsibility for dealing with the Director and the Competition Bureau with respect to the Competition Act Approval but all filing fees shall be the responsibility of the Purchaser and shall be forthwith reimbursed by the Purchaser to the Vendor should the Vendor pay any such fees. The Purchaser shall co-operate fully with the Vendor, but at the Purchaser's expense so that the Competition Act Approval can be obtained as soon as possible after the Execution Date. The Purchaser and the Vendor agree that they shall apply for and shall make reasonable efforts to diligently pursue an advance ruling certificate pursuant to

Section 102 of the *Competition Act* (Canada) in respect of the transactions contemplated by this Agreement. The Purchaser hereby irrevocably constitutes and appoints the Vendor as its attorney to prepare, execute and file all documents on behalf of the Purchaser with the Director in connection with the Competition Act Approval save and except for any documents and information which the Purchaser deems to be confidential in nature and which the Purchaser shall prepare, execute and file independently.

5.11 Access for Investigation

The Vendor shall permit the Purchaser and its Representatives, between the Execution Date and the Time of Closing, without interference to the ordinary conduct of the Business, to have access during normal business hours to the Public Service Employees, the Highway 407 Lands, the Operations Centre and the Patrol Yard Lands, to all the Books and Records and to the other material Assets of the Company and to furnish to the Purchaser such financial and operating data and other information as the Purchaser shall from time to time reasonably request to enable confirmation of the matters warranted in Section 4.1. Subject to the foregoing, the accounting representatives of the Purchaser shall be afforded ample opportunity to make a full investigation of all aspects of the financial affairs of the Company.

5.12 Confidentiality

After the Closing, except as otherwise required by Applicable Law including the *Freedom of Information Act* (Ontario) or in connection with any review of this Agreement and the transactions contemplated hereby by any public body or Governmental Authority or by the provincial auditor, the Vendor shall keep confidential all information relating to the Company, except information which:

- (i) is or becomes generally available to the public; or
- (ii) the Vendor received after Closing from an third party, who had obtained the information lawfully and was under no obligation of secrecy.

5.13 Tax Returns

The Vendor shall have the right to prepare and file all Tax returns of the Company in respect of the period of time from the Execution Date to and including the Closing Date, and the Purchaser shall co-operate with the Vendor so that such Tax returns are signed and filed by the Company on a timely basis.

5.14 Description of Highway 407 Lands

The Vendor shall provide to the Company and the Purchaser as soon as a registrable description of such lands becomes available, a description of the Highway 407 Lands, which will permit registration of the Concession Agreement against title to that part of the Highway 407 Lands on which Highway 407 Central is situate and a description of the Highway 407 Lands which will permit registration of the Concession Agreement against title to that part of the Highway 407 Lands which constitute Highway 407 West and Highway 407 East Partial. The Vendor shall at its expense have a registrable description of such lands prepared as soon as

practicable at its expense and the Vendor shall pay all land transfer tax with respect to any such registrations.

ARTICLE 6 PRE-CONDITIONS TO CLOSING

6.1 Conditions for the Benefit of the Purchaser

The Purchaser shall be obliged to complete the Closing only if each of the conditions precedent set out in the following subsections of this Section 6.1 and 6.4 have been satisfied in full at or before the Time of Closing. Each of the conditions precedent set forth in Section 6.1 is for the exclusive benefit of the Purchaser and the Purchaser may waive any of them in whole or in part in writing.

6.1.1 Representations and Warranties

The representations and warranties of the Vendor set forth in Sections 4.1(a) to (f) inclusive, (j) to (l) inclusive, (s), (ab) and (ah) in this Agreement will be true and correct in all material respects at and as of the Time of Closing with the same force and effect as if made at and as of such time and date, and the Vendor will deliver to the Purchaser at the Time of Closing a certificate, dated the Closing Date and duly executed by a senior official of the Vendor, in a form acceptable to the Purchaser, acting reasonably; to such effect.

6.1.2 Performance of Covenant

The Vendor shall not be in material breach of its covenant set forth in Section 5.9 and the Vendor shall deliver to the Purchaser at the Time of Closing a certificate, dated the Closing Date, and duly executed by a senior official of the Vendor, in a form acceptable to the Purchaser, acting reasonably, to such effect.

6.1.3 Concession Agreement

The Highway 407 Concession and Ground Lease Agreement, in the form set out in Schedule 6.1.3 to this Agreement, as such may be amended by an amending agreement respecting Highway 407 East Completion, and as further amended by amendments contained in addenda issued pursuant to the process therefor set out in the CIM, (all of which, together with all agreements set out in the schedules thereto, are herein collectively referred to as the "Concession Agreement") shall have been executed by all parties thereto and shall be in full force and effect and the Company will be entitled to all benefits, rights and privileges thereunder.

6.1.4 Opinion of Counsel for Vendor

The Purchaser shall have received a legal opinion dated the Closing Date from the Vendors' counsel substantially in the form set forth in Schedule 6.1.4. In giving such opinion, counsel to the Vendor may rely on certificates of senior officials of the Vendor as to factual matters.

6.1.5 Consents

The Vendor shall have obtained the Consents listed on Schedule 4.1(i) and the Highway 407 Act shall be fully proclaimed in force.

6.2 Acknowledgement

The Purchaser and the Equity Participants acknowledge that arranging financing to pay the Purchase Price is not a pre-condition to Closing.

6.3 Conditions for the Benefit of the Vendor

The Vendor shall be obliged to complete the Closing only if each of the conditions precedent set out in the following Subsections of this Section 6.3 and Section 6.4 have been satisfied in full at or before the Time of Closing. Each of the conditions precedent set forth in this Section 6.3 is for the exclusive benefit of the Vendor and the Vendor may waive any of them in whole or in part in writing.

6.3.1 Representations and Warranties

All representations and warranties of the Purchaser and each Equity Participant in this Agreement shall be true and correct in all material respects at and as of the Time of Closing with the same force and effect as if made at and as of such time and date, and the Purchaser and each Equity Participant shall deliver to the Vendor at the Time of Closing a certificate, dated the Closing Date, under corporate seal and duly executed by a senior officer of the Purchaser and each Equity Participant acceptable to the Vendor, acting reasonably, to such effect.

6.3.2 Performance of Covenants

The Purchaser and each Equity Participant shall not be in material breach of any material covenant on its part contained in this Agreement which is to be performed or complied with by the Purchaser or such Equity Participant at or prior to the Time of Closing and the Purchaser and each Equity Participant shall deliver to the Vendor at the Time of Closing a certificate, dated the Closing Date, and duly executed by a senior officer of the Purchaser and each Equity Participant in a form acceptable to the Vendor, acting reasonably, to such effect.

6.3.3 Consents, Authorizations and Registrations

All Consents of any Governmental Authorities (or registrations, declarations, filings or recordings with any of them), required for the Purchaser or the Equity Participants to consummate the transactions contemplated herein (other than routine post-closing notifications or filings), shall have been obtained or made on or before the Time of Closing except for any Consent, approval or authorization of a lender to or investor in the Purchaser.

6.3.4 Opinion of Counsel for Purchaser and Equity Participants

The Vendor shall have received a legal opinion dated the Closing Date from the Purchaser's and each of the Equity Participants' counsel substantially in the forms set forth in

Schedule 6.3.4. In giving such opinion, counsel to the Purchaser and the Equity Participants may rely on certificates of senior officers of the Purchaser and the Equity Participants as to factual matters.

6.4 Mutual Conditions

The Vendor and the Purchaser shall be obliged to complete the Closing only if each of the conditions precedent set out in the following Subsections of this Section 6.4 have been satisfied in full at or before the Time of Closing. Each of the conditions precedent is for the mutual benefit of the Parties and may only be waived by both of them.

6.4.1 Injunction

There shall be no injunction or restraining order issued by a court or tribunal of competent jurisdiction enjoining or preventing the consummation of the transactions contemplated in this Agreement.

6.4.2 Competition Act

The Competition Act Approval shall have been obtained without any condition that would have a material adverse effect on the value of the Business.

6.5 Waiver

Any Party may waive, by written notice to the other Parties, any condition set forth in this Article 6 which is for its benefit. No waiver by a Party of any condition, in whole or in part, shall operate as a waiver of any other condition.

6.6 Failure to Satisfy Conditions

If any condition set forth in Sections 6.1, 6.3 or 6.4 is not satisfied at the Time of Closing, a Party entitled to the benefit of such condition (the "First Party") may terminate this Agreement by notice in writing to the other Party and in such event:

- (a) unless the other Party can show that the condition or conditions which have not been satisfied and for which the First Party has terminated this Agreement are reasonably capable of being performed or caused to be performed by the First Party or have not been satisfied by reason of a default by the First Party hereunder, then the First Party shall be released from all obligations hereunder; and
- (b) unless the First Party can show that the condition or conditions which have not been satisfied and for which the First Party has terminated this Agreement are reasonably capable of being performed or caused to be performed by the other Party or have not been satisfied by reason of a default by the other Party hereunder, then the other Party shall also be released from all obligations hereunder.

6.7 Remedies of Purchaser

If the Closing occurs and at the Time of Closing,

- (a) a representation and warranty of the Vendor contained in Section 4.1, other than any of those listed in Section 6.1.1, excluding Section 4.1(s), is incorrect; or
- (b) any covenant of the Vendor contained in this Agreement, other than the one listed in Section 6.1.2, which is to be performed by the Vendor at or before the Time of Closing is not performed,

the remedies of the Purchaser under Article 7 of this Agreement with respect to the incorrectness of such representation and warranty or the non-performance of such covenant, shall not be affected by the Closing.

ARTICLE 7 INDEMNIFICATION

7.1 Indemnification by Vendor

7.1.1 Subject to any limits set forth in Section 7.12, the Vendor shall indemnify and save harmless the Purchaser and each of its Representatives from and against any and all Loss suffered or incurred by them, as a result of:

- (a) subject to Section 4.5, any misrepresentation or breach of warranty made or given by the Vendor in this Agreement;
- (b) any failure by the Vendor to observe or perform any covenant or obligation contained in this Agreement to be observed or performed by it;
- (c) any Taxes assessed against the Company in relation to a period of time ending on or prior to the Time of Closing; and
- (d) the contingent liabilities associated with the matters listed in Schedule 4:1(ae) (other than those matters relating to Taxes) to the extent not covered by insurance in favour of the Company.

7.1.2 Y2K Indemnification by Vendor

The Vendor shall indemnify and save harmless the Purchaser and each of its Representatives from and against any and all Loss suffered or incurred by them during the nine month period commencing January 1, 2000 as a result of the computer hardware or software (including embedded systems) either forming part of the Toll System (including any transponders used in conjunction therewith) or used by the Ministry of Transportation of the Province of Ontario to operate, maintain and access the database of information products which are to be provided under the Authorized Requester Electronic Data Transfer Agreement made on the 6th

day of April, 1999 between The Crown in Right of Ontario as represented by the Minister of Transportation and the Company (collectively, the "Systems") not being Y2K Ready, other than any such Loss that is suffered or incurred as a result of any change made to the Tolling System by the Purchaser or those for whom the Purchaser is in law responsible that results in the Systems not being Y2K Ready. For purposes of this Section 7.1.2, Loss shall include the cost of remediation of a System to render it Y2K Ready but not the cost of replacement of a System.

After the Closing, the Purchaser shall take such measures as a prudent Person would take in comparable circumstances to identify whether or not the Systems are Y2K Ready and, if necessary, to remedy any deficiency in the Systems to make the Systems Y2K Ready.

For purposes of this Section 7.1.2, a System shall be considered to be Y2K Ready if (i) the occurrence in or use by such System of dates on or after January 1, 2000 will not adversely affect the performance of such System in dealing with date-dependent data, computations or other functions, including calculating (including leap year calculations), comparing and sequencing, and (ii) on or after January 1, 2000 such System will create, store, process and output date-dependent data in a consistent manner which does not create any ambiguity as to the century. For greater certainty, (a) the unavailability to a System of power and other essential third party-provided utilities and services, or (b) the improper functioning of other computer systems (other than a System) with which a System exchanges data shall not result in a System not being considered Y2K Ready.

No Claim may be made by the Purchaser against the Vendor under this Section 7.1.2 in respect of any such Loss unless (i) the aggregate of all such Losses suffered or incurred by the Purchaser exceeds Five Million Dollars (\$5,000,000), in which event the amount of all such Losses in excess of such amount, up to a maximum aggregate amount of Fifty Million Dollars (\$50,000,000) may be recovered by the Purchaser, and (ii) such Claim is made prior to April 1, 2001.

7.2 Indemnification by the Purchaser and Equity Participants

7.2.1 The Purchaser shall indemnify and save harmless the Vendor and each of its Representatives from and against any and all Loss suffered or incurred by them, as a result of:

- (a) subject to Section 4.6, any misrepresentation or breach of warranty made or given by the Purchaser in this Agreement; and
- (b) any failure by the Purchaser to observe or perform any covenant or obligation contained in this Agreement to be observed or performed by it.

7.2.2 Each Equity Participant shall indemnify and save harmless the Vendor each of its Representatives from and against any and all Loss suffered or incurred by them, as a result of,

- (a) subject to Section 4.6, any misrepresentation or breach of warranty made or given by such Equity Participant in this Agreement; and

- (b) any failure by such Equity Participant to observe or perform any covenant or obligation contained in this Agreement to be observed or performed by it.

7.3 Agency for Representatives

Each Indemnified Party agrees that it accepts each indemnity in favour of any of its Representatives as agent and trustee of that Representative. Each Party agrees that an Indemnified Party may enforce an indemnity in favour of any of that Party's Representatives on behalf of that Representative.

7.4 Notice of Third Party Claim

If an Indemnified Party receives notice of the commencement or assertion of any Third Party Claim, the Indemnified Party shall give the Indemnifier reasonably prompt written notice thereof, but in any event no later than 30 days after receipt of such notice of such Third Party Claim. Such notice to the Indemnifier shall describe the Third Party Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Indemnified Party.

7.5 Defence of Third Party Claim

The Indemnifier may participate in or assume the defence of any Third Party Claim by giving notice to that effect to the Indemnified Party not later than 30 days after receiving notice of that Third Party Claim (the "Notice Period"). The Indemnifier's right to do so shall be subject to the rights of any insurer or other Party who has potential liability in respect of that Third Party Claim. The Indemnifier agrees to pay all of its own expenses of participating in or assuming each defence. The Indemnified Party shall co-operate in good faith in the defence of each Third Party Claim, even if the defence has been assumed by the Indemnifier and may participate in such defence assisted by counsel of its own choice at its own expense. If the Indemnified Party has not received notice within the Notice Period that the Indemnifier has elected to assume the defence of such Third Party Claim, the Indemnified Party may assume such defence, assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Loss suffered or incurred by the Indemnified Party with respect to such Third Party Claim.

7.6 Assistance for Third Party Claims

The Indemnifier and the Indemnified Party will use all reasonable efforts to make available to the Party which is undertaking and controlling the defense of any Third Party Claim (the "Defending Party"),

- (a) those employees whose assistance, testimony and presence is necessary to assist the Defending Party in evaluating and in defending any Third Party Claim; and
- (b) all documents, records and other materials in the possession of such Party reasonably required by the Defending Party for its use in defending any Third Party Claim;

and shall otherwise co-operate with the Defending Party. The Indemnifier shall be responsible for all reasonable expenses associated with making such documents, records and materials available and for all expenses of any employees made available by the Indemnified Party to the Indemnifier hereunder, which expense shall not exceed the actual cost to the Indemnified Party associated with such employees.

7.7 Settlement of Third Party Claims

If an Indemnifier elects to assume the defence of any Third Party Claim as provided in Section 7.5, the Indemnifier shall not be liable for any legal expenses subsequently incurred by the Indemnified Party in connection with the defence of such Third Party Claim. However, if the Indemnifier fails to take reasonable steps necessary to defend diligently such Third Party Claim within 30 days after receiving notice from the Indemnified Party that the Indemnified Party *bona fide* believes on reasonable grounds that the Indemnifier has failed to take such steps, the Indemnified Party may, at its option, elect to assume the defence of and to compromise or settle the Third Party Claim assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection therewith. The Indemnified Party shall not settle or compromise any Third Party Claim without obtaining the prior written consent of the Indemnifier unless such settlement or compromise is made without any liability to the Indemnifier.

7.8 Direct Claims

Any Direct Claim shall be asserted by giving the Indemnifier reasonably prompt written notice thereof, but in any event not later than 60 days after the Indemnified Party becomes aware of such Direct Claim. The Indemnifier shall then have a period of 30 days within which to respond in writing to such Direct Claim. If the Indemnifier does not so respond within such 30 day period, the Indemnifier shall be deemed to have rejected such Claim, and in such event the Indemnified Party may submit such Direct Claim to the dispute resolution process set forth in Article 8.

7.9 Failure to Give Timely Notice

A failure to give timely notice as provided in this Article 7 shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, a Party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure. However, this Section 7.9 shall have no effect whatever on the survival provisions set out in Section 4.5 and 4.6 and the rights of the Parties with respect thereto.

7.10 Reductions and Subrogation

If the amount of any Loss incurred by an Indemnified Party at any time subsequent to the making of an Indemnity Payment is reduced by:

- (a) any net tax benefit to the Indemnified Party; or

- (b) any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person,

the amount of such reduction (less any costs, expenses (including taxes) or premiums incurred in connection therewith), together with interest thereon from the date of payment thereof at the Bank Rate, shall promptly be repaid by the Indemnified Party to the Indemnifier. Upon making a full Indemnity Payment, the Indemnifier shall, to the extent of such Indemnity Payment, be subrogated to all rights of the Indemnified Party against any third party in respect of the Loss to which the Indemnity Payment relates. Until the Indemnified Party recovers full payment of its Loss, any and all claims of the Indemnifier against any such third party on account of such Indemnity Payment shall be postponed and subordinated in right of payment to the Indemnified Party's rights against such third party.

7.11 Payment and Interest

All amounts to be paid by an Indemnifier hereunder shall bear interest at a rate per annum equal to the Bank Rate, calculated annually and payable monthly, both before and after judgment, from the date that the Indemnified Party disbursed funds, suffered damages or losses or incurred a loss, liability or expense in respect of a Loss for which the Indemnifier is liable to make payment pursuant to Section 7.1.2 or in respect of a Qualifying Loss for which the Indemnifier is liable to make payment pursuant to Section 7.12, to the date of payment by the Indemnifier to the Indemnified Party.

7.12 Limitation

No Claim may be made by the Purchaser against the Vendor under Section 7.1.1(a) in respect of any Loss arising in connection with any misrepresentation or breach of warranty made or given by the Vendor in this Agreement unless:

- (a) the Loss is a Qualifying Loss; and
- (b) the aggregate of all Qualifying Losses suffered or incurred by the Purchaser in respect of all such misrepresentations or breaches of warranty, exceeds Ten Million Dollars (\$10,000,000) in the aggregate, in which event the amount of all such Qualifying Losses in excess of such amount may be recovered by the Purchaser.

The maximum aggregate liability of the Vendor to the Purchaser for Qualifying Losses hereunder shall not exceed 25% of the Purchase Price.

7.13 Exclusive Remedy

Subject to Section 6.6, the rights of indemnity set forth in this Article 7 are the sole and exclusive remedy of each Party in respect of any misrepresentation, breach of warranty or breach of covenant by the other Party hereunder. This Article 7 shall remain in full force and effect in all circumstances and shall not be terminated by any breach (fundamental, negligent or

otherwise) by any Party of its representations, warranties or covenants hereunder or under any Closing Document or by any termination or rescission of this Agreement by any Party hereof.

7.14 Duty to Mitigate

Nothing in this Agreement shall in any way restrict or limit the general obligation at law of an Indemnified Party to mitigate any Loss which it may suffer or incur by reason of the breach by any Indemnifier of any representation, warranty or covenant of the Indemnifier hereunder or any Loss referred to in Section 7.1.2 which it may suffer or incur. If any Loss (including any Loss referred to in Section 7.1.2) can be reduced by any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other Person, the Indemnified Party shall take all appropriate steps to enforce such recovery, settlement or payment.

7.15 General Limitations

A Party shall have no liability to any other Party hereunder or otherwise:

- (a) for any liability which arises solely by reason of a proposed or actual enactment or change of any applicable tax legislation or any proposed or actual change in the interpretation or administration of such legislation after the date hereof;
- (b) for any liability that arises as a result of any legislation of general application not in force on the date hereof which takes effect retrospectively or occurs as a consequence of a change in the interpretation of the law after the date hereof;
- (c) in respect of any matter of thing done or omitted to be done by or at the direction or with the written consent of such other Party;
- (d) in respect of more than one representation, warranty or covenant that relates to the same matter or thing;
- (e) to the extent that provision or reserve in respect of the matter giving rise to such liability is made in the Pro-Forma Balance Sheet; and
- (f) to the extent that such liability has been adequately compensated pursuant to any Purchase Price adjustment made pursuant to Section 2.4.

Sections 7.15(a) and (b) shall not apply to any such liability that arises as result of any of the matters referred to in Sections 7.15(a) or (b) which are within the control of the Vendor and solely affect the Business or the interests of the Purchaser or the Company therein. Section 7.15(a) shall not apply with respect to any GST assessed against the Company with respect to a period of time ending on or prior to the Time of Closing as a result of any change in the interpretation or administration of the ETA as it exists on the date hereof.

ARTICLE 8 DISPUTE RESOLUTION

8.1 Amicable Negotiations

Unless otherwise provided herein, in the event of any dispute arising between the Vendor, the Purchaser and/or an Equity Participant under or relating in any way to this Agreement or the Restriction on Transfer Agreement, such dispute shall, in the first instance, by notice from either Party to the other requiring the dispute to be resolved, be referred to the person designated as the "Senior Responsible Official" by the Vendor as "Grantor" under the Concession Agreement and the chief operating officer of the Purchaser for resolution. If the dispute is not resolved to the mutual satisfaction of the Parties within fifteen (15) Business Days (or such longer period as the Parties may agree) following such notice, the dispute shall, by notice from either Party to the other requiring the dispute to be resolved at a higher level, be referred to the then chief executive officer of the Purchaser and the then responsible Minister of the Vendor or such Minister's designee. If the dispute is not resolved to the mutual satisfaction of the Parties within thirty (30) Business Days following such notice, either Party may by notice to the other require that the dispute be resolved by mediation as set out in Section 8.2.

8.2 Mediation

If the negotiation described in Section 8.1 does not result in an agreement, any Party may by notice to the other require that the dispute be resolved by mediation as described below. The mediation shall be held within thirty (30) days following the end of the thirty (30) day negotiation period. Within seven (7) days following the end of such thirty (30) day negotiation period, the Parties shall jointly select and appoint a skilled and experienced commercial mediator to assist the Parties to reach an agreement through mediation. The mediation shall be conducted under such mediation rules as the mediator recommends and the cost of mediation shall be shared equally by the Parties to the mediation. Any settlement reached by mediation shall be resolved in writing, shall be signed by the Parties and shall be binding on them. If the Parties fail to agree on a mediator or the dispute is not resolved to the mutual satisfaction of the Parties within thirty (30) days following the date of receipt of the notice of mediation, any Party may by notice to the others require the dispute to be resolved by arbitration as set out in Sections 8.3 to 8.5.

8.3 Location of Arbitration

Any arbitration hereunder shall be held at Toronto, Ontario unless the Parties otherwise agree.

8.4 Laws of Ontario

The law to be applied in connection with the arbitration shall be the law of Ontario, including its conflict of law rules.

8.5 Arbitration Act, 1991

The arbitration shall be governed by the Rules of Procedure set out in Schedule 8.5. It shall be a condition precedent to the bringing of any legal proceedings that are contemplated by the Rules that the Parties will have concluded the arbitration process as provided by the Rules. The provisions of the *Arbitration Act, 1991* (Ontario) shall apply to the extent that they are not inconsistent with this Article or with such Rules of Procedure.

ARTICLE 9 GENERAL

9.1 Public Notice

All public notices to third parties and all other publicity made by the Purchaser or the Equity Participants concerning the transactions contemplated by this Agreement shall be jointly planned and coordinated by the Vendor and the Purchaser and neither the Purchaser nor the Equity Participants shall act unilaterally in this regard without the prior written approval of the Vendor, such approval not to be unreasonably withheld or delayed, unless otherwise required by law and if otherwise required by law, all such public notices will be made by the Purchaser or the Equity Participants, as the case may be, only after consultation and co-ordination with the Vendor to the extent practicable in the circumstances.

9.2 Expenses

Each of the Vendor, the Purchaser and the Equity Participants shall be responsible for its own fees, costs and expenses (including the fees and disbursements of legal counsel) incurred in connection with this Agreement and the transactions contemplated hereby. For greater certainty, the Vendor shall not charge to the Company any fees, costs or expenses relating to the negotiation and execution of this Agreement or the completion of the transactions contemplated hereby. The Purchaser and the Equity Participants are solely responsible for obtaining their own independent legal, financing, accounting, engineering and technical advice.

9.3 Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties including the Request for Expressions of Interest - Sale of Highway 407 Express Toll Route dated October 26, 1998 and the CIM and any statements, representations or warranties made by or on behalf of the Vendor or the Company by Merrill Lynch Canada Inc., RBC Dominion Securities Inc. or their respective affiliates or any other provincial advisor and its affiliates. There are no representations, warranties, conditions, other agreements or acknowledgements, whether direct or collateral, express or implied, that form part of or affect this Agreement, or which induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. Save for the express representations and warranties made by the Vendor in this Agreement, the Purchaser and the Equity Participants are not relying upon any information, documentation or advice provided by the Company or the Vendor in connection with the Business or in connection with the carrying out of the purchase of the Purchased Shares, including any information,

documentation or advice in the Reference Documents (as defined in the Concession Agreement) and the Vendor shall not be responsible for any loss, liability, cost or expense that may arise as a result of or in relation to any inaccuracy or deficiency in any such information, documentation or advice whether in the Reference Documents or otherwise.

9.4 Further Assurances

The Parties shall do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated hereby, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether prior to or following the Closing.

9.5 Notices

All payments and communications which may be or are required to be given by any Party to any other Party, shall be in writing and (a) delivered personally, (b) sent by prepaid courier service or by registered mail, or (c) sent by prepaid telecopier or other similar means of electronic communication to the Parties at their following respective address:

For the Purchaser:

1346292 Ontario Inc.
c/o SNC – LAVALIN Group Inc.
2200 Lake Shore Blvd. West
Toronto, Ontario
M8V 1A4

Attention: President

Telecopier: (416) 231-5356

Attention: Chief Financial Officer

Telecopier: (416) 231-5356

with a copy to:

Fraser Milner
1 First Canadian Place
100 King Street West
Toronto, Ontario
M5X 1B2

Attention: Douglas H. Scott

Telecopier: (416) 863-4592

and a copy to each of the Equity Participants as follows:

SNC – LAVALIN Inc.
455 René Lévesque Blvd. West
Montréal, Québec
H2Z 1Z3

Attention: Vice President and Managing Director
SNC – LAVALIN Equity

Telecopier: (514) 398-9952

with a copy to:

Senior Vice President, Law and General Counsel

Telecopier: (514) 866-5057

Grupo Ferrovial, S.A.
Plaza Manuel Gómez Moreno, 2
Planta 14
Edificio Alfredo Mahou
E-28020 Madrid
Spain

Attention: José Maria Lopez de Fuentes

Telecopier: 34-915-551-241

with a copy to:

Legal Counsel Director
Secretary of the Board

Telecopier: 34-915-556-786

Cintra Concesiones de Infraestructuras de
Transporte, S.A.
Plaza Manuel Gómez Moreno, 2
Planta 14
Edificio Alfredo Mahou
E-28020 Madrid
Spain

Attention: José Maria Lopez de Fuentes

Telecopier: 34-915-551-241

with a copy to:

Legal Counsel Director
Secretary of the Board

Telecopier: 34-915-556-786

For SNC – LAVALIN Inc.:

as set out earlier in this section

For Grupo Ferrovial, S.A.:

as set out earlier in this section

For Cintra Concesiones de Infraestructuras de
Transporte, S.A.:

as set out earlier in this section

For the Vendor:

Privatization Secretariat
56 Wellesley Street
Suite 600
Toronto, Ontario
M7A 1C1

Attention: Chief Executive Officer

Telecopier: (416) 325-8851

with a copy to:

Goodman Phillips & Vineberg
250 Yonge Street
Suite 2400
Toronto, Ontario
M5B 2M6

Attention: Donald G. Pierce

Telecopier: (416) 979-1234

- and -

Fasken Campbell Godfrey
Suite 3700
Toronto Dominion Bank Tower
66 Wellington Street West
P.O. Box 20
Toronto-Dominion Centre
Toronto, Ontario
M5K 1N6

Attention: W. Thomas Barlow

Telecopier: (416) 364-7813

Any such notice so given shall be deemed conclusively to have been given and received when so personally delivered or sent by telecopier or other electronic communication or on the second Business Day following the sending thereof by private courier or on the fifth Business Day following the sending thereof by registered mail. Any Party may from time to time change its address hereinbefore set forth by notice to the other Parties in accordance with this Section.

9.6 Governing Law

This Agreement and the rights, obligations and relations of the Parties shall be governed by and construed in accordance with the laws of the Province of Ontario (but without giving effect to the conflict of laws rules thereof) and the laws of Canada applicable therein. The Parties agree that the courts of the Province of Ontario shall have non-exclusive jurisdiction to entertain any action or other legal proceedings based on any provision of this Agreement. Each Party does hereby irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.

9.7 Service

If any Party is or becomes a Party on which service or legal process with respect to an action commenced in the Province of Ontario must be served out of the jurisdiction of the

Province of Ontario (an "Ex-Juris Party"), the Ex-Juris Party shall, in writing to the other Party, designate, appoint and empower a Party or agent within the Province of Ontario to receive for and on behalf of the Ex-Juris Party service of process in the Province of Ontario in any legal action or proceeding with respect to this Agreement, which agent shall undertake to enter an unconditional appearance within 30 days after such service. A copy of such process served on the agent will promptly be forwarded by mail by the Party initiating such proceedings to the Ex-Juris Party at the address hereinafter referred to. Failure of the Ex-Juris Party to receive such copy shall not affect in any way the service of such process on the Ex-Juris Party by service upon its agent for service as designated above. Each Party agrees that if it becomes an Ex-Juris Party and it fails to maintain such a duly appointed agent for service of process, it irrevocably consents to the service of process out of any court of the Province of Ontario by mailing all copies of such process by registered or certified mail, postage prepaid to the last address designated for delivery of notice to such Ex-Juris Party under the terms of Section 9.5 of this Agreement, such service to be effective 30 days after such mailing. The mailing to such Ex-Juris Party at such address shall be deemed personal service and acceptance of service by such Ex-Juris Party in any legal action or proceeding with respect to any matter relating to this Agreement. Service in accordance with the foregoing provisions shall not preclude any other manner of service permitted by Ontario law.

9.8 Assignment

This Agreement and the Vendor's rights hereunder may be assigned by the Vendor in its sole discretion provided that no such assignment shall release the Vendor from its obligations or liabilities under this Agreement. Neither this Agreement nor any rights or obligations hereunder shall be assignable by the Purchaser or the Equity Participants without the prior written consent of the Vendor, which consent may be unreasonably withheld, except that each of the Purchaser or the Equity Participants may assign and reassign this Agreement as security to any *bona fide* Arm's Length lender in connection with any financing transaction (including any refinancing, extension or replacement thereof) incurred with respect to payment of the Purchase Price or the ongoing need for financing in connection with any construction contemplated by the Concession Agreement or the operation of the Business.

9.9 Benefit of the Agreement

This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.

9.10 Time of the Essence

Time is of the essence to every provision of this Agreement. Extension, waiver or variation of any provision of this Agreement shall not be deemed to affect this provision and there shall be no implied waiver of this provision.

9.11 Amendment

This Agreement may be amended, modified or supplemented only by written agreement of the Vendor, the Purchaser and the Equity Participants. Each Party acknowledges that it shall have no right to rely upon any amendment, promise, modification, statement or

representation made or occurring subsequent to the execution of this Agreement unless the same is in writing and executed by the Purchaser, each Equity Participant and the Vendor.

9.12 Waiver

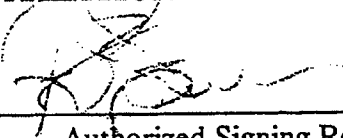
The failure of any Party to enforce at any time any of the provisions of this Agreement or any of its rights with respect thereto or to insist upon strict adherence to any term of this Agreement shall not be considered to be a waiver of such provision, right or term or in any way to affect the validity of this Agreement or deprive the applicable Party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. The exercise by any Party of any of its rights under this Agreement shall not preclude or prejudice such Party from exercising any other right it may have under this Agreement, irrespective of any previous action or proceeding taken by it hereunder. Any waiver by any Party of the performance of any of the provisions of this Agreement shall be effective only if in writing and signed by a duly authorized representative of such Party.

9.13 Counterparts

This Agreement may be executed by the Parties in separate counterparts (by original or facsimile signature) each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

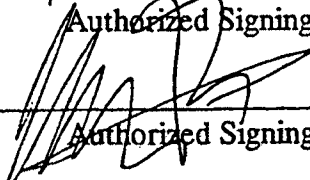
IN WITNESS WHEREOF the Parties have hereunto duly executed this Agreement on the date first above written.

**THE CROWN IN RIGHT OF ONTARIO, AS
REPRESENTED BY THE MINISTER WITHOUT
PORTFOLIO WITH RESPONSIBILITY FOR
PRIVATIZATION**

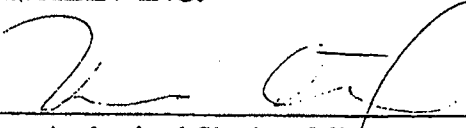
Per:  _____ c/s
Authorized Signing Representative

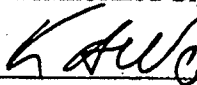
1346292 ONTARIO INC.

Per:  _____ c/s
Authorized Signing Officer

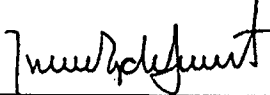
Per:  _____
Authorized Signing Officer

SNC-LAVALIN INC.

Per:  _____ c/s
Authorized Signing Officer

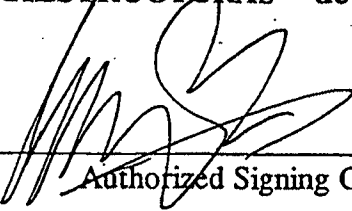
Per:  _____
Authorized Signing Officer

GRUPO-FERROVIAL, S.A.

Per:  _____ c/s
Authorized Signing Officer

Per: _____
Authorized Signing Officer

**CINTRA CONCESIONES de
INFRAESTRUCTURAS de TRANSPORTE,
S.A.**

Per:  _____ c/s
Authorized Signing Officer

Per: _____
Authorized Signing Officer

SCHEDULES TO THE SHARE PURCHASE AGREEMENT

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