

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MILLER INDUSTRIES, INC. and its wholly-
owned subsidiaries MILLER INDUSTRIES
TOWING EQUIPMENT INC., and
CHEVRON, INC.

Defendants.

Civil Action No. 1:00CV00305

Filed: 2/17/00

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, as follows:

- (1) The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in this Court.
- (2) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.
- (3) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending its entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation,

comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court. As part of this compliance, defendants shall not assign, transfer interest, or take any action, direct or indirect, that will impede or impair the value or ownership rights of the '737, '147, '509, '609, and '623 Patents (as those terms are defined in the proposed Final Judgment) before the proposed Final Judgment shall be effective.

(4) Pursuant to Section IV of the proposed Final Judgment, Defendants shall offer to any requesting third party a license or licenses, the terms of which shall comply with the terms set forth in the proposed Final Judgment and Exhibits A and B thereof; provided, however, that if the proposed Final Judgment has not been entered because Plaintiff has withdrawn its consent or the time for all appeals of any Court ruling declining entry of the proposed Final Judgment has expired, then the license(s) shall terminate effective upon withdrawal of consent or expiration of time for appeals. As provided in Exhibits A and B, licensees shall have the right to sell at any time products made within 60 days of termination caused by the withdrawal of the Plaintiff's consent or by the Court's declining to enter the proposed Final Judgment.

(5) Within ten (10) days of its filing of the proposed Final Judgment and every thirty days thereafter until entry of the Final Judgment, defendants shall provide Plaintiff an affidavit setting forth the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to license, expressed an interest in licensing, entered into negotiations to license, or was contacted or made an inquiry about licensing the '737, '147, '509, '609, or '623 Patents, and shall describe in detail each contact with any such person during that period.

(6) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

(7) In the event Plaintiff withdraws its consent, as provided in paragraph (2) above, or in the event that the Court declines to enter the proposed Final Judgment pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

(8) Defendants represent that the licenses ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the licensing provisions contained therein.

FOR PLAINTIFF UNITED STATES OF AMERICA:

_____/s/_____
Susan L. Edelheit
D. C. Bar No. 250 720

Assistant Chief, Civil Task Force
Antitrust Division, U.S. Department of Justice
Suite 300, 325 7th Street, N.W.
Washington, D.C. 20530
(202) 514-5038

Date Signed: _____, 2000

FOR MILLER INDUSTRIES, INC., MILLER INDUSTRIES TOWING EQUIPMENT, INC., and
CHEVRON, INC.

_____/s/_____
C. Loring Jetton, Jr., (202) 663-6738, D.C. Bar No. 083766
John Q. Rounsaville, Jr., (202) 663-6328, D.C. Bar No. 162305
William F. Adkinson, Jr., (202) 663-6530, D.C. Bar No. 411922
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037

Date Signed: _____, 2000

_____/s/_____
Frank Madonia
Executive Vice President and General Counsel
Miller Industries, Inc.
8503 Hilltop Drive
Ooltewah, TN 37363-0120
(423) 238-4171

Date Signed: _____, 2000

STIPULATION APPROVED FOR FILING

Ordered this ____ day of _____, 2000

United States District Judge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MILLER INDUSTRIES, INC. and its wholly-
owned subsidiaries MILLER INDUSTRIES
TOWING EQUIPMENT INC., and
CHEVRON, INC.

Defendants.

Civil Action No. 00-CV-

Filed:

FINAL JUDGMENT

WHEREAS, Plaintiff, the United States of America (“United States”), having filed its Complaint in this action, and Plaintiff and Defendants, Miller Industries, Inc. and its wholly-owned subsidiaries Miller Industries Towing Equipment, Inc., and Chevron, Inc. (any one or more of which may be referred to as “Miller Industries”), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS Defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS the essence of this Final Judgment is the prompt and certain licensing of specified patents to one or more third parties;

AND WHEREAS Defendants, as alleged in the Complaint, as owners of all right, title, and interest in the L-Arm Patent (defined below), acquired all of the capital stock of Vulcan International, Inc., including all right, title, and interest in the Vulcan Improvement Patents (defined below), and thereafter acquired all of the capital stock of Chevron, Inc., including all right, title and interest in the Independent Wheel Lift Patent and the Backsaver Patent (defined below);

AND WHEREAS licensing of the specified patents is necessary to remedy the loss of competition resulting from Defendants' acquisition of control of competitors' assets as alleged in the Complaint;

AND WHEREAS Plaintiff takes no position as to the validity or enforceability of the patents at issue or as to whether they are or have been infringed by any third parties, and Plaintiff and Defendants agree that this Final Judgment shall have no impact whatsoever on any adjudication concerning the validity or enforceability of the patents at issue or any other patents assigned to or owned by Defendants;

AND WHEREAS Defendants have represented to Plaintiff that Miller Industries is the owner of the patents at issue, that the licensing and other terms and conditions ordered herein can and will be accomplished, and that Defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I.

JURISDICTION

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the Defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II.

DEFINITIONS

As used in this Final Judgment:

A. “Miller Industries” shall mean one or more of Miller Industries, Inc., a Tennessee corporation headquartered in Ooltewah, TN, and its wholly-owned subsidiaries Miller Industries Towing Equipment, Inc., a Delaware corporation headquartered in Ooltewah, TN, and Chevron, Inc., a Pennsylvania corporation headquartered in Mercer, PA, and their successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

B. “Produce,” “Producing,” or “Production” shall mean to manufacture, make, have made, import into the United States, use, offer to sell, sell or otherwise dispose of.

C. “The ‘737 Patent’ (commonly referred to as the “L-Arm Patent”) shall mean United States Patent Number 4,836,737 and all continuations, continuations-in-part, and divisions or reissues thereof, if any.

D. “The ‘623 Patent’ shall mean United States Patent Number 4,637,623 and all continuations, continuations-in-part, and divisions or reissues thereof, if any.

E. “The ‘509 Patent’ shall mean United States Patent Number 4,798,509 and all continuations, continuations-in-part, and divisions or reissues thereof, if any.

F. “The ‘147 Patent’ (commonly referred to as the “Independent Raise-and-Lower Patent”) shall mean United States Patent Number 5,061,147 and all continuations, continuations-in-part, and divisions or reissues thereof, if any.

G. “The ‘609 Patent’ (commonly referred to as the “Backsaver Patent”) shall mean United States Patent Number 5,628,609 and all continuations, continuations-in-part, and divisions or reissues thereof, if any.

H. The “Century Design” shall mean Miller Industries’ wheel lift designs depicted in the engineering drawings attached as Exhibit D and E and which are embodied in Century Model Nos. 124002217 and 124002221, currently being marketed by Miller Industries in the United States, as well as the wheel lift designs incorporated in the previously marketed Century Model Nos. 124001824 and 124001825.

I. “The Improvement Patents” (commonly referred to as the “Vulcan Improvement Patents,” covering such items as the horizontal and vertical “pivot” L-arm features) shall mean the ‘623 Patent and the ‘509 Patent.

J. The “Licensed Claims of the Improvement Patents” shall mean Claims 1-3, 6-10, 12, 15, 17, 18, 20 and 22 of the ‘623 Patent and Claims 1, 4-9, 11-14 and 16-19 of the ‘509 Patent. The Licensed Claims include such features as the horizontal and vertical “pivot” of the L-arm.

K. The “Unlicensed Claims of the Improvement Patents” shall mean Claims 4, 5, 11, 13-14, 16, 19 or 21 of the ‘623 Patent and Claims 2, 3, 10 or 15 of the ‘509 Patent. The Unlicensed Claims of the Improvement Patents embody the following features of the Improvement Patents: (1) the vertical locking pin device; (2) the elongated curved wheel retainer plate (sometimes referred to as "the Scoop"); and (3) the wheel lift receiver placed completely above the cross-bar. The act of Producing products containing (a) a horizontal locking pin device, (b) a vertical alignment pin on the receiver used in combination with a horizontal locking pin device, or (c) two flat surfaces joined together to form the wheel retainer plate, or any combination of (a), (b), or (c), by a licensee under the Licensed Claims of the Improvement Patents shall not constitute an infringement of any of the Unlicensed Claims of the Improvement Patents.

III.

APPLICABILITY

The provisions of this Final Judgment apply to Miller Industries, its successors and assigns (including any transferee or assignee of any ownership rights to, control of, or ability to license the patents referred to in this Final Judgment), its subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

LICENSING OF PATENTS

A. Beginning no later than ten (10) business days after the filing pursuant to 15 U.S.C. § 16 (b) of this Final Judgment, Miller Industries shall offer to any third party a non-exclusive license in the form attached hereto as Exhibit A (with the exception of licenses that include the Improvement Patents) or Exhibit B (for licenses that include the Improvement Patents) under the following patents subject to license fees not to exceed the corresponding stated amount per unit:

Patent(s) to be Licensed	Unit License Fee Not to Exceed
'737 Patent	\$125.00
'147 Patent	\$150.00
'609 Patent	\$150.00
Licensed Claims of the Improvement Patents	\$150.00
'737 Patent & '147 Patent, Together	\$175.00
'737 Patent & '609 Patent, Together	\$175.00
'737 Patent & Licensed Claims of the Improvement Patents, Together	\$175.00

The Maximum Unit License Fee shall be adjusted up or down annually in accordance with the change in the U.S. Department of Labor Producer Price Index for Finished Goods.

B. Such licenses shall be available for the life of the licensed patent. The Maximum Unit License Fee for a license covering more than one patent shall, in the event of the expiration of any covered patent, be modified to reflect the Maximum Unit License Fee for the remaining licensed patent

or patents. The terms of Exhibit A or Exhibit B may be modified upon consent of both parties to the license.

C. In accomplishing the licensing ordered by this Section IV, Miller Industries shall retain the services of an Independent Auditor (a certified public accountant from a firm of good standing) who shall collect from each licensee reports and royalty payments as required by each license agreement made pursuant to this Final Judgment. Miller Industries shall instruct the Independent Auditor to provide Miller Industries no more frequently than on a quarterly basis the aggregate dollar amount of royalty payments collected under each category of license set forth in Paragraph A hereof, together with a report stating the name of each licensee making royalty payments and the aggregate number of units of licensed products reported by all licensees for that period. Miller Industries shall instruct the Independent Auditor not to provide or disclose any information or data that would allow Miller Industries to determine the number of units of licensed products produced by any particular licensee, but may permit the Independent Auditor to disclose to it facts that constitute grounds for material breach under the terms of the license.

D. Any existing licensee of any one or more of the '147, '509, '609, '623 or '737 Patents may elect to modify its existing license to any such patent by substituting the terms and conditions of the licenses available pursuant to this Section IV on thirty (30) days' written notice to Miller Industries.

E. In accomplishing the licensing ordered by this Section IV, Miller Industries promptly shall make known, by usual and customary means, the availability of the licenses, including mailing within ten (10) days of filing pursuant to 15 U.S.C. § 16(b) of this Final Judgment notices of the available licenses in the form of Exhibit C along with copies of this Final Judgment to all firms known to

it that manufacture tow trucks, car carriers, or similar towing and recovery vehicles. Miller Industries shall provide any person making an inquiry regarding a possible license with a copy of this Final Judgment, including all exhibits thereto. At Plaintiff's request, Miller Industries shall furnish to Plaintiff copies of any executed licenses made pursuant to this Section IV.

F. Miller Industries shall retain the services of a Designated Expert, to be selected by Plaintiff in its sole discretion, who shall, at the request of any existing or prospective Licensee of the Improvement Patents (hereafter "Licensee"), determine whether a proposed design is an "Approved Proposed Design." A proposed design shall be an Approved Proposed Design if it falls within the Licensed Claims of the Improvement Patents and does not fall within the Unlicensed Claims. Miller Industries shall provide the Designated Expert with a copy of this Final Judgment and shall instruct him/her to use his/her best efforts to provide the Licensee with a written determination within 30 days after receipt of engineering drawings and other necessary information. A Licensee has no obligation to request a determination from the Designated Expert, and use of the Designated Expert is at a Licensee's sole discretion.

G. Miller Industries shall be bound by the Designated Expert's determination that a proposed design is an Approved Proposed Design, and shall not challenge as infringement of any Unlicensed Claim the Licensee's Production of products made in accordance with the specifications of an Approved Proposed Design.

H. Miller Industries shall instruct the Designated Expert to keep confidential all submissions and contact with any Licensee seeking a determination, and shall instruct the Designated Expert not to disclose to Miller Industries or any third party, unless required to do so by law, any

information concerning the Licensee's request for a determination on any proposed design. However, Miller Industries may instruct the Designated Expert (1) to notify Miller Industries after a proposed design has been approved, of the identity of the firm submitting the design, and (2) after the Licensee has begun selling products made in accordance with an Approved Proposed Design, to provide Miller Industries with a description of the product and its features sufficient to enable Miller Industries to determine whether the product is made in accordance with the specifications of the Approved Proposed Design, subject to the Licensee's confirmation that the description to be disclosed reveals no confidential data or trade secrets.

I. Miller Industries will pay the Designated Expert's fees, up to a maximum of five (5) thousand dollars, for his/her services in gaining sufficient familiarity with the licensed patents and the scope of the claims thereof to enable him/her to undertake to determine whether proposed designs are Approved Proposed Designs. The cost of the Designated Expert's determination of whether a given submitted proposed design is an Approved Proposed Design shall be borne by the Licensee.

J. Within fifteen days from the filing pursuant to 15 U.S.C. § 16(b) of this Final Judgment, Miller Industries shall provide Plaintiff with the names of three candidates (each with sufficient expertise in patent interpretation to be able to make qualified determinations) who have no affiliation or relationship with Miller Industries or any other towtruck or car carrier manufacturer to serve as the Designated Expert. After reviewing these candidates, Plaintiff may request from Miller Industries the names of additional candidates to serve as Designated Expert. Miller Industries shall provide such additional names within fifteen days from receipt of such request. Should Plaintiff object to all candidates submitted by Miller Industries, Plaintiff may select a Designated Expert of its own choosing.

K. Miller Industries shall not challenge as infringement of its Unlicensed Claims, or of any other claims of any patents owned by or assigned to Miller Industries, the Production of a product embodying the Century Design by a licensee of the '737 Patent and the Licensed Claims of the Improvement Patents. Miller Industries shall also not challenge as infringement of any claims under the Improvement Patents the Production of a product with a wheel lift design made pursuant to the specifications in the '609 Patent (the "Backsaver Design") by a licensee of the '609 Patent.

V.

LIMITATIONS

A. Nothing in this Final Judgment shall be construed to restrict Miller Industries' ability to manufacture and sell products pursuant to the '737 Patent, the Improvement Patents, the '147 Patent, or the '609 Patent.

B. Notwithstanding Section IV of this Final Judgment, Miller Industries is not required to grant a license to any person to whom a license was previously granted under this Final Judgment that was terminated for material breach.

VI.

NOTIFICATION

A. Miller Industries shall provide advance notification to the Plaintiff (1) when it directly or indirectly acquires (other than in the ordinary course of business as defined in the HSR regulations) any assets of, or any interest (including any financial, security, loan, equity, or management interest) in, any

manufacturer of towtrucks, car carriers, or other towing and recovery equipment, with the exception of any transaction where the total value of the assets or interest being acquired is less than five (5) million dollars; or (2) when it directly or indirectly

(i) acquires any exclusive license or (ii) acquires or is assigned any ownership or security interest in a patent or patents relating to the manufacture of towtrucks, car carriers, or other towing and recovery equipment, with the exception of any transaction where the total value of the interest acquired in such patent rights is less than five (5) million dollars. For purposes of this paragraph, total value shall be determined as prescribed in 16 C.F.R. § 801.10. If the transaction is covered by the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a (the “HSR Act”), Miller Industries’ obligation to provide notification under this Section shall be satisfied by compliance with the HSR Act.

B. Notification under this section shall be provided to the Plaintiff in the same format as, and per the instructions relating to, the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations, as amended. Notification shall be provided at least thirty (30) days prior to the acquisition of such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification representatives of the Plaintiff make a written request for additional information, Defendant shall not consummate the proposed transaction or agreement until twenty (20) days after substantial compliance with the request for such additional information. The Plaintiff may, however, grant defendant early termination of the waiting periods

prescribed by this Section. This Section shall be broadly construed, and any ambiguity or uncertainty regarding the necessity of filing such notification under this Section shall be resolved in favor of filing notice.

VII.

AFFIDAVITS

A. Miller Industries shall provide Plaintiff an affidavit within ten (10) days of the filing pursuant to 15 U.S.C. § 16(b) of this Final Judgment, and every six (6) months thereafter until the life of each of the '147, '509, '609, '623 and the '737 Patents has expired, as to the fact and manner of compliance with Section IV hereof. Each such affidavit shall set forth efforts made to accomplish licensing of the patents contemplated in this Final Judgment and shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to license, expressed an interest in licensing, entered into negotiations to license, or was contacted or made an inquiry about licensing the patents to be licensed, and shall describe in detail each contact with any such person during that period.

B. Until one year after each of the '147, '509, '609, '623 and the '737 Patents have expired, Miller shall preserve all records of all efforts made to effect the licensing of each such patent.

VIII.

COMPLIANCE INSPECTION

For the purpose of determining or securing compliance with this Final Judgment, or determining whether the Final Judgment should be further modified or terminated, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants made to their principal offices, shall be permitted:

1. Access during office hours of Defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Defendants, who may have counsel present, relating to any matters contained in this Final Judgment; and
2. Subject to the reasonable convenience of Defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to Defendants at their principal offices, Defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment.

C. No information nor any documents obtained by the means provided in Sections VII or VIII of this Final Judgment shall be divulged by a representative of the United States to any person other than a duly authorized representative of the Executive Branch of the United States, except in the

course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to Plaintiff, Defendants represent and identify in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, “Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,” then Plaintiff shall give ten (10) days notice to Defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Defendants are not a party.

IX.

RETENTION OF JURISDICTION

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

X.

TERMINATION

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date of its entry.

XI.

PUBLIC INTEREST

Entry of this Final Judgment is in the public interest.

Dated: _____

Court approval subject
to procedures of Antitrust
Procedures and Penalties Act,
15 U.S.C. § 16

United States District Judge

EXHIBIT A

LICENSE AGREEMENT

[Exhibit A to be used for licensing United States Patent Number 5,061,147 (“The Independent Raise-and-Lower Patent”); United States Patent Number 5,628,609 (“The Backsaver Patent”); United States Patent Number 4,836,737 (“The L-Arm Patent”); or a combination of the ‘737 Patent and either the ‘147 or ‘609 Patents. Please see Exhibit B for licenses relating to United States Patent Number 4,798,509 & United States Patent Number 4,637,623 (collectively, the “Improvement Patents”)]

This License Agreement is made by and between _____ (“Licensee”) and MILLER INDUSTRIES, INC., or a designated subsidiary thereof (and its successors and assigns, collectively “Licensor”);

WHEREAS, Licensor is the owner of [*United States Patent Number 5,061,147; United States Patent Number 5,628,609; and/or United States Patent Number 4,836,737*]

AND WHEREAS, Licensee desires to obtain a license from Licensor relating to said patent [*or patents*];

AND WHEREAS, Licensor desires to grant Licensee such a license;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants which follow, the parties hereby agree that:

Article 1 -- Definitions

As used in this Agreement, the following terms shall have the following meanings:

1.01. “The ‘737 Patent” shall mean United States Patent Number 4,836,737. [*“The ‘147 Patent” shall mean United States Patent Number 5,061,147; and/or “The ‘609 Patent” shall mean United States Patent Number 5,628,609.*]

1.02. “Royalty Bearing Products” shall mean products made in accordance with the claims of the ‘737 Patent [*the ‘147 Patent and/or the ‘609 Patent*].

1.03. “Independent Auditor” shall mean a person or persons appointed by Licensor subject to the terms and conditions of Section IV of the Final Judgment in *United States v. Miller Industries, Inc.*, Civ. 00-____ (D.D.C. 2000).

Article 2 -- License And Related Terms

2.01. Patent License. During the term of this Agreement, subject to the terms and conditions hereof, including, without limitation, the timely payment by Licensee to the Independent Auditor of the license fees provided for in Section 2.02 hereof, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a non-exclusive, non-transferable (except as specifically provided in Section 5.05 hereof), right and license under the ‘737 Patent [*the ‘147 Patent and/or the ‘609 Patent*] to make, have made, import, use, offer to sell, sell, or otherwise dispose of Royalty Bearing Products within the United States.

2.02. Royalties. In consideration of the license granted under Section 2.01 hereof, Licensee shall pay Licensor a royalty of \$_____ ¹ per unit for each Royalty Bearing Product Sold or Otherwise Disposed of by or for Licensee. The term “Sold or Otherwise Disposed of” includes Royalty Bearing Products sold, leased, placed in commercial service, or delivered by or on behalf of Licensee within the United States. In no event shall a licensee pay more than one royalty on a single unit of Royalty Bearing Product.

Article 3 -- Notice Provisions

3.01. Licensee shall make written reports to the Independent Auditor within 30 days of the end of each calendar quarter through the life of the ‘737 Patent [*the ‘147 Patent and/or the ‘609 Patent*] stating in each such report the aggregate number of Royalty Bearing Products it has Sold or Otherwise Disposed of within the United States during such calendar quarter and upon which royalty is payable as provided in this Agreement. The first such report shall include all Royalty Bearing Products Licensee has Sold or Otherwise Disposed of between the date of this Agreement and the date of such report. The Independent Auditor shall report to the Licensor only such information as is permitted under Paragraph IV.C of the Final Judgment in *United States v. Miller Industries, Inc., et al.*, Civ. 00-____ (D.D.C. 2000).

¹ *Royalties shall not exceed the following:*

<i>‘737 Patent</i>	<i>\$125.00 per unit</i>
<i>‘147 Patent</i>	<i>\$150.00 per unit</i>
<i>‘609 Patent</i>	<i>\$150.00 per unit</i>
<i>‘147 and ‘737 Patents, together</i>	<i>\$175.00 per unit</i>
<i>‘609 and ‘737 Patents, together</i>	<i>\$175.00 per unit</i>

These maximum limits on royalties shall be adjusted up or down annually in accordance with the change in the U.S. Department of Labor Producer Price Index for Finished Goods.

3.02. Concurrently with each report, Licensee shall pay to the Independent Auditor royalties at the rate specified in Article 2.02 of this Agreement on the Royalty Bearing Products included in the report.

3.03. Licensee shall keep accurate books and records in accordance with accepted accounting practices showing the Royalty Bearing Products it made, had made, imported, used, offered for sale, Sold or Otherwise Disposed of during the life of this License Agreement. Such records shall be in sufficient detail to enable the royalties payable to Licensor to be determined.

3.04. The Independent Auditor shall notify Licensor when, in his or her independent judgment, an audit is appropriate, and upon Licensor's approval shall conduct an audit. Upon request of the Independent Auditor, Licensee will permit its books and records pertinent to the determination of the royalties payable to Licensor to be examined to the extent reasonably necessary for the Independent Auditor to verify the reports provided by Licensee. In the event that the Auditor shall have questions that appear not to be answered by such books and records, the Auditor shall have the right to confer with representatives of the Licensee, including but not limited to the Licensee's Chief Financial Officer and Plant Manager. Such examination shall be made at the expense of the Independent Auditor and may be requested no more than once per year. The Independent Auditor, who shall be obligated to confidentiality, shall report to Licensor only the amount of royalty payable for the period under audit based upon a review of the books and records provided. If the Independent Auditor determines that Licensee has underpaid the applicable royalties by less than 5% of the total applicable royalties for the period in question, Licensee shall pay the arrears and interest at a rate of 10% per annum, or the maximum allowable interest rate under the applicable state law, if it is lower. If the Independent Auditor determines that Licensee has underpaid the applicable royalties by greater than 5% of the total applicable royalties for the period in question, Licensee shall pay the cost of the audit, the arrears, and interest at a rate of 10% per annum, or the maximum allowable interest rate under the applicable state law, if it is lower.

3.05 Nothing in this Agreement shall restrict the right of Licensor to seek redress for infringement of the [*patents to be licensed*] by Licensee occurring before the date of execution of this Agreement.

Article 4 -- Term and Termination

4.01. Subject to the terms and conditions hereof, this Agreement shall become effective upon execution by both parties and shall remain in force for the life of the last licensed patent to expire or upon termination. Licensee may terminate this Agreement by giving Licensor at least 90 days' prior written notice of termination. Licensor may terminate this Agreement immediately, and refuse to grant Licensee a new license, if Licensee commits a material breach, as defined in Section 4.02 below.

4.02. Licensor may treat as a material breach: (i) Licensee's failure to make a report pursuant to Section 3.01 hereof, or to pay corresponding royalties due under such report pursuant to Section 3.02 hereof, provided that such failure is not cured or resolved within 30 days after Licensee receives notice thereof; (ii) the Independent Auditor's determination, as a result of an audit conducted pursuant to Section 3.04 above, that Licensee has underpaid the royalties by more than 20% in the applicable period, provided that the underpayment is not cured or resolved within 60 days after Licensee is informed of the determination; (iii) the Independent Auditor's determination in two successive audits conducted pursuant to Section 3.04 above, that Licensee has underpaid the royalties by more than 20% in the applicable period, whether or not such underpayment is cured; or (iv) Licensee's failure to re-establish compliance with its obligations to maintain liability insurance under Section 5.10(b) hereof within 60 days of receiving notice from Licensor of its non-compliance. The provisions of Section 5.04 concerning *Force Majeure* shall apply to the curing or resolution of grounds for a material breach.

4.03. *[To be included only in all licenses granted before entry of the Final Judgment.]* Licensor shall have the option to terminate this Agreement if, in the matter *United States v. Miller Industries, Inc. et al.*, either of the following events occur: (1) Plaintiff withdraws its consent to entry of the proposed Final Judgment, or (2) the Court declines to enter the proposed Final Judgment, and the time has expired for all appeals from any Court ruling declining such entry. Such termination shall be effective 60 days after Licensor notifies Licensee of the occurrence of event (1) or (2) under this Section 4.03.

4.04. In the event of termination, Licensee shall report under Section 3.01 hereof, and pay under Section 3.02 hereof, royalties on all Royalty Bearing Products that it has made or imported prior to termination. A terminated Licensee shall have the right at any time to sell or otherwise dispose of any Royalty Bearing Product on which royalties have been paid. Termination shall not affect Licensee's duty to pay royalty obligations hereunder, and shall not affect Licensor's right to request an audit covering any period during which Licensee has a right hereunder to make or import any product.

Article 5 -- Miscellaneous Provisions

5.01. Limitations of Liability and Claims.

(a) Licensor warrants that it owns the entire right, title, and interest to the *[patent(s) being licensed]* and has the ability to license the *[patent(s) being licensed]* but otherwise neither party makes any representations, extends any warranties of any kind, either express or implied, and each party specifically disclaims any implied warranty of merchantability or fitness for a particular purpose in relation to the teachings of the *[patent(s) being licensed]*.

(b) The parties are under no obligation and shall not be required under this Agreement to bring or prosecute actions or suits against any third party for infringement of the *[patent(s) being licensed]*.

5.02. Relationship of the Parties. The parties shall be independent contractors hereunder and neither party shall have the power or authority to bind the other party with respect to any third party. Except as specifically provided herein, each party shall bear its own costs and expenses.

5.03. Effect of Agreement. This Agreement embodies the entire understanding between the parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, oral or written, relating thereto. Any amendment hereof must be in writing and signed by both parties.

5.04. Force Majeure. Each party's performance hereunder is subject to interruption or delay due to causes beyond its reasonable control such as acts of God, acts of government, war or other hostility, the elements, fire, explosion, power failure, equipment failure, industrial or labor dispute, and the like. In the event of such an interruption or delay, any relevant period of performance of the party affected shall be extended for a period of time equal to the period of the interruption or delay and any obligation of the party whose performance is not affected which corresponds to the interrupted or delayed performance shall be suspended for a period of time equal to the period of the interruption or delay. Any party whose performance hereunder is subject to such interruption or delay shall give prompt notice to the other party of the reason or reasons for the commencement of and of the conclusion of such interruption or delay.

5.05. Assignment and Successors. This Agreement shall inure to the benefit of and be binding upon the parties as well as subsidiaries, affiliates, and successors-in-interest of the parties hereto. Neither party nor any subsidiary, affiliate or successor-in-interest shall assign or transfer any of its rights, privileges or obligations hereunder without the prior written consent of the other party, except that Licensor may, without the consent of Licensee, assign this license in connection with the transfer of all or substantially all of its towing equipment manufacturing and distribution business. Nothing in this Agreement grants, or is intended to grant the right or authorization to grant, sublicenses of the [*patent(s) being licensed*]. Upon a permitted assignment of this Agreement, said assignee shall expressly agree in writing to be bound by all of the provisions of this Agreement. However, nothing in this Section shall permit a former licensee of the [*patents being licensed*] who has been terminated for material breach as defined in Section 4.02 to exercise any rights under this Agreement.

5.06. Severability. Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby.

5.07. Non-Waiver. Failure of either party to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision nor of the right to enforce such provision.

5.08. Notices. In order to be effective, all notices, requests, demands, agreements, consents, approvals, permissions and other communications required or permitted hereunder shall be in writing,

shall be delivered personally, faxed, transmitted by courier or express service, or mailed, with proper charge prepaid, to the party for whom intended as set forth below, and shall be deemed to be given upon the date of actual receipt:

To Licensee:

To Licensor: President
 Miller Industries, Inc.
 8503 Hilltop Drive
 Ooltewah, TN 37363

(by other means)

The sending party shall have the burden of proving receipt. Either party may change any address to which notices and other communications are to be directed to it by giving notice of such change to the other party in the manner provided above.

5.09. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Tennessee.

5.10. Insurance. During the term of this Agreement, Licensee shall maintain broad form general liability insurance, including blanket contractual, products and completed operations liability coverage, in the amount of two (2) million dollars. Within 30 days following execution of this Agreement, Licensee shall deliver to Licensor a Certificate of Insurance and, subsequently, any renewals thereof evidencing the insurance required by this Paragraph.

5.11. Patent Marking. Licensee shall mark each Royalty Bearing Product made, used, Sold or Otherwise Disposed of under this license with the following marking:

“Manufactured and sold under license of United States Patent Nos. [*Patent(s) being licensed*].”

5.12. Trademarks and Trade Names. The license herein granted conveys no right to Licensee to use or register any trademarks or trade names of the Licensor.

5.13. Preservation of Licensor's Rights. Licensor's grant of rights to Licensee pursuant to this Agreement shall in no way restrict Licensor's right to manufacture and sell products pursuant to the *[patent(s) being licensed]*.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives.

[LICENSEE]

By _____

Its _____

Date _____

[LICENSOR]

By _____

Its _____

Date _____

EXHIBIT B

LICENSE AGREEMENT

[Exhibit B to be used for licenses relating to United States Patent Number 4,798,509 & United States Patent Number 4,637,623 (collectively, the “Improvement Patents”). The “Alternative” (in italics) relates to terms for licenses of the Improvement Patents together with the ‘737 L-Arm Patent.]

This License Agreement is made by and between _____ (“Licensee”) and MILLER INDUSTRIES, INC., or a designated subsidiary thereof (and its successors, collectively “Licensor”);

WHEREAS, Licensor is the owner of United States Patent Number 4,798,509 and United States Patent Number 4,637,623; [*and United States Patent Number 4,836,737*]

AND WHEREAS, Licensee desires to obtain a license from Licensor relating to said patents;

AND WHEREAS, Licensor desires to grant Licensee such a license;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants which follow, the parties hereby agree that:

Article 1 -- Definitions

As used in this Agreement, the following terms shall have the following meanings:

1.01. “The ‘737 Patent’ shall mean United States Patent Number 4,836,737.

1.02. “The ‘623 Patent’ and “the ‘509 Patent’ shall mean respectively, United States Patent Number 4,637,623 and United States Patent Number 4,798,509. (Collectively, the “Improvement Patents”).

1.03 The “Licensed Claims” shall mean only Claims 1-3, 6-10, 12, 15, 17, 18, 20 and 22 of the ‘623 Patent and only Claims 1, 4-9, 11-14 and 16-19 of the ‘509 Patent. The act of Producing products containing (a) a horizontal locking pin device, (b) a vertical alignment pin on the receiver used in combination with a horizontal locking pin device, or (c) two flat surfaces joined together to form a wheel retainer plate, or any combination of (a), (b), or (c), shall not constitute an infringement of any unlicensed claim of the ‘623 Patent or the ‘509 Patent.

1.04. "Royalty Bearing Products" shall mean products made in accordance with the Licensed Claims of the '623 Patent or the '509 Patent. [ALTERNATIVE IF LICENSE IS FOR BOTH L-ARM AND IMPROVEMENTS: "Royalty Bearing Products" shall mean products made in accordance with any claim or claims of the '737 Patent and the Licensed Claims of the '623 Patent or the '509 Patent].

1.05. "Independent Auditor" shall mean a person or persons appointed by Licensor subject to the terms and conditions of Section IV of the Final Judgment in *United States v. Miller Industries, Inc.*, Civ. 00-____ (D.D.C. 2000).

1.06. "Produce," "Producing," or "Production" means to manufacture, make, have made, import into the United States, use, offer to sell, sell or otherwise dispose of.

Article 2 -- License And Related Terms

2.01. Patent License. During the term of this Agreement, subject to the terms and conditions hereof, including, without limitation, the timely payment by Licensee to the Independent Auditor of the license fees provided for in Section 2.02 hereof, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a non-exclusive, non-transferable (except as specifically provided in Section 5.05 hereof), right and license under the '623 Patent and '509 Patent to make, have made, import, use, offer to sell, sell, or otherwise dispose of Royalty Bearing Products within the United States. This agreement does not provide Licensee with the right to make, have made, import, use, offer to sell, sell, or otherwise dispose of products that are made in accordance with (i) Claims 4, 5, 11, 13-14, 16, 19 or 21 of the '623 Patent; (ii) Claims 2, 3, 10 or 15 of the '509 Patent; or (iii) any claim of the '737 Patent.

2.02. Royalties. In consideration of the license granted under Section 2.01 hereof, Licensee shall pay Licensor a royalty of \$_____ per unit¹ for each Royalty Bearing Product Sold or Otherwise Disposed of by or for Licensee. The term "Sold or Otherwise Disposed of" includes Royalty Bearing Products sold, leased, placed in commercial service, or delivered by or on behalf of Licensee within the United States. In no event shall a Licensee pay more than one royalty on a single unit of Royalty Bearing Product.

Article 2 -- License And Related Terms [ALTERNATIVE: LICENSE FOR L-ARM PLUS IMPROVEMENT PATENTS]

¹ The royalty shall not exceed \$150 per unit, adjusted up or down annually in accordance with the change in the U.S. Department of Labor Producer Price Index for Finished Goods.

2.01. Patent License. During the term of this Agreement, subject to the terms and conditions hereof, including, without limitation, the timely payment by Licensee to the Independent Auditor of the license fees provided for in Section 2.02 hereof, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a non-exclusive, non-transferable (except as specifically provided in Section 5.05 hereof), right and license under the '737 Patent, '623 Patent and '509 Patent to make, have made, import, use, offer to sell, sell, or otherwise dispose of Royalty Bearing Products within the United States. This agreement does not provide Licensee with the right to make, have made, import, use, offer to sell, sell, or otherwise dispose of products that embody or are made in accordance with Claims 4, 5, 11, 13-14, 16, 19 or 21 of the '623 Patent or Claims 2, 3, 10 or 15 of the '509 Patent.

2.02. Royalties. In consideration of the license granted under Section 2.01 hereof, Licensee shall pay Licensor a royalty of \$_____ per unit² for each Royalty Bearing Product Sold or Otherwise Disposed of by or for Licensee.. The term "Sold or Otherwise Disposed of" includes Royalty Bearing Products sold, leased, placed in commercial service, or delivered by or on behalf of Licensee within the United States. In no event shall a licensee pay more than one royalty on a single unit of Royalty Bearing Product.

Article 3 -- Notice Provisions

3.01. Licensee shall make written reports to the Independent Auditor within 30 days of the end of each calendar quarter through the life of each patent to be licensed, stating in each such report the aggregate number of Royalty Bearing Products it has Sold or Otherwise Disposed of within the United States during such calendar quarter and upon which royalty is payable as provided in this Agreement. The first such report shall include all Royalty Bearing Products Licensee has Sold or Otherwise Disposed of between the date of this Agreement and the date of such report. The Independent Auditor shall report to the Licensor only such information as is permitted under Paragraph IV.C of the Final Judgment in *United States v. Miller Industries, Inc., et al.*, Civ. 00-____ (D.D.C. 2000).

3.02. Concurrently with each report, Licensee shall pay to the Independent Auditor royalties at the rate specified in Article 2.02 of this Agreement on the Royalty Bearing Products included in the report.

3.03. Licensee shall keep accurate books and records in accordance with accepted accounting practices showing the Royalty Bearing Products it made, had made, imported, used, offered

² The royalty shall not exceed \$175 per unit, adjusted up or down annually in accordance with the change in the U.S. Department of Labor Producer Price Index for Finished Goods.

for sale, Sold or Otherwise Disposed of during the life of this License Agreement. Such records shall be in sufficient detail to enable the royalties payable to Licensor to be determined.

3.04. The Independent Auditor shall notify Licensor when, in his or her independent judgment, an audit is appropriate, and upon Licensor's approval shall conduct an audit. Upon request of the Independent Auditor, Licensee will permit its books and records pertinent to the determination of the royalties payable to Licensor to be examined to the extent reasonably necessary for the Independent Auditor to verify the reports provided by Licensee. In the event that the Auditor shall have questions that appear not to be answered by such books and records, the Auditor shall have the right to confer with representatives of the Licensee, including but not limited to the Licensee's Chief Financial Officer and Plant Manager. Such examination shall be made at the expense of the Independent Auditor and may be requested no more than once per year. The Independent Auditor, who shall be obligated to confidentiality, shall report to Licensor only the amount of royalty payable for the period under audit based upon a review of the books and records provided. If the Independent Auditor determines that Licensee has underpaid the applicable royalties by less than 5% of the total applicable royalties for the period in question, Licensee shall pay the arrears and interest at a rate of 10% per annum, or the maximum allowable interest rate under the applicable state law, if it is lower. If the Independent Auditor determines that Licensee has underpaid the applicable royalties by greater than 5% of the total applicable royalties for the period in question, Licensee shall pay the cost of the audit, the arrears, and interest at a rate of 10% per annum, or the maximum allowable interest rate under the applicable state law, if it is lower.

3.05 Nothing in this Agreement shall restrict the right of Licensor to seek redress for infringement of the *[patents to be licensed]* by Licensee occurring before the date of execution of this Agreement.

Article 4 -- Term and Termination

4.01. Subject to the terms and conditions hereof, this Agreement shall become effective upon execution by both parties and shall remain in force for the life of the last licensed patent to expire or upon termination. Licensee may terminate this Agreement by giving Licensor at least 90 days' prior written notice of termination. Licensor may terminate this Agreement immediately, and refuse to grant Licensee a new license, if Licensee commits a material breach, as defined in Section 4.02 below.

4.02. Licensor may treat as a material breach: (i) Licensee's failure to make a report pursuant to Section 3.01 hereof, or to pay corresponding royalties due under such report pursuant to Section 3.02 hereof, provided that such failure is not cured or resolved within 30 days after Licensee receives notice thereof; (ii) the Independent Auditor's determination, as a result of an audit conducted pursuant to Section 3.04 above, that Licensee has underpaid the royalties by more than 20% in the applicable period, provided that the underpayment is not cured or resolved within 60 days after Licensee is

informed of the determination; (iii) the Independent Auditor's determination in two successive audits conducted pursuant to Section 3.04 above, that Licensee has underpaid the royalties by more than 20% in the applicable period, whether or not such underpayment is cured; or (iv) Licensee's failure to re-establish compliance with its obligations to maintain liability insurance under Section 5.10(b) hereof within 60 days of receiving notice from Licensor of its non-compliance. The provisions of Section 5.04 concerning *Force Majeure* shall apply to the curing or resolution of grounds for a material breach.

4.03. *[To be included only in all licenses granted before entry of the Final Judgment.]* Licensor shall have the option to terminate this Agreement if, in the matter *United States v. Miller Industries, Inc. et al.*, either of the following events occur: (1) Plaintiff withdraws its consent to entry of the proposed Final Judgment, or (2) the Court declines to enter the proposed Final Judgment, and the time has expired for all appeals from any Court ruling declining such entry. Such termination shall be effective 60 days after Licensor notifies Licensee of the occurrence of event (1) or (2) under this Section 4.03.

4.04. In the event of termination, Licensee shall report under Section 3.01 hereof, and pay under Section 3.02 hereof, royalties on all Royalty Bearing Products that it has made or imported prior to termination. A terminated Licensee shall have the right at any time to sell or otherwise dispose of any Royalty Bearing Product on which royalties have been paid. Termination shall not affect Licensee's duty to pay royalty obligations hereunder, and shall not affect Licensor's right to request an audit covering any period during which Licensee has a right hereunder to make or import any product.

Article 5 -- Miscellaneous Provisions

5.01. Limitations of Liability and Claims.

(a) Licensor warrants that it owns the entire right, title, and interest to the *[patent(s) being licensed]* and has the ability to license the *[patent(s) being licensed]* but otherwise neither party makes any representations, extends any warranties of any kind, either express or implied, and each party specifically disclaims any implied warranty of merchantability or fitness for a particular purpose in relation to the teachings of the *[patent(s) being licensed]*.

(b) The parties are under no obligation and shall not be required under this Agreement to bring or prosecute actions or suits against any third party for infringement of the *[patent(s) being licensed]*.

(c) Licensor warrants that, should Licensee (in its own discretion) obtain an "Approved Proposed Design" from the Designated Expert pursuant to Section IV of the Final Judgment in *United States v. Miller Industries*, Licensor will not challenge as infringement of any unlicensed claim of the

'509 or '623 Patents the Licensee's production of products made in accordance with the specifications of an Approved Proposed Design.

5.02. Relationship of the Parties. The parties shall be independent contractors hereunder and neither party shall have the power or authority to bind the other party with respect to any third party. Except as specifically provided herein, each party shall bear its own costs and expenses.

5.03. Effect of Agreement. This Agreement embodies the entire understanding between the parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, oral or written, relating thereto. Any amendment hereof must be in writing and signed by both parties.

5.04. Force Majeure. Each party's performance hereunder is subject to interruption or delay due to causes beyond its reasonable control such as acts of God, acts of government, war or other hostility, the elements, fire, explosion, power failure, equipment failure, industrial or labor dispute, and the like. In the event of such an interruption or delay, any relevant period of performance of the party affected shall be extended for a period of time equal to the period of the interruption or delay and any obligation of the party whose performance is not affected which corresponds to the interrupted or delayed performance shall be suspended for a period of time equal to the period of the interruption or delay. Any party whose performance hereunder is subject to such interruption or delay shall give prompt notice to the other party of the reason or reasons for the commencement of and of the conclusion of such interruption or delay.

5.05. Assignment and Successors. This Agreement shall inure to the benefit of and be binding upon the parties as well as subsidiaries, affiliates, and successors-in-interest of the parties hereto. Neither party nor any subsidiary, affiliate or successor-in-interest shall assign or transfer any of its rights, privileges or obligations hereunder without the prior written consent of the other party, except that Licensor may, without the consent of Licensee, assign this license in connection with the transfer of all or substantially all of its towing equipment manufacturing and distribution business. Nothing in this Agreement grants, or is intended to grant the right or authorization to grant, sublicenses of the [*patent(s) being licensed*]. Upon a permitted assignment of this Agreement, said assignee shall expressly agree in writing to be bound by all of the provisions of this Agreement. However, nothing in this Section shall permit a former licensee of the [*patents being licensed*] who has been terminated for material breach as defined in Section 4.02 to exercise any rights under this Agreement.

5.06. Severability. Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions shall not be affected thereby.

5.07. Non-Waiver. Failure of either party to enforce any provision of this Agreement shall not constitute or be construed as a waiver of such provision nor of the right to enforce such provision.

5.08. Notices. In order to be effective, all notices, requests, demands, agreements, consents, approvals, permissions and other communications required or permitted hereunder shall be in writing, shall be delivered personally, faxed, transmitted by courier or express service, or mailed, with proper charge prepaid, to the party for whom intended as set forth below, and shall be deemed to be given upon the date of actual receipt:

To Licensee:

To Licensor: President
 Miller Industries, Inc.
 8503 Hilltop Drive
 Ooltewah, TN 37363

(by other means)

The sending party shall have the burden of proving receipt. Either party may change any address to which notices and other communications are to be directed to it by giving notice of such change to the other party in the manner provided above.

5.09. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Tennessee.

5.10. Insurance. During the term of this Agreement, Licensee shall maintain broad form general liability insurance, including blanket contractual, products and completed operations liability coverage, in the amount of two (2) million dollars. Within 30 days following execution of this Agreement, Licensee shall deliver to Licensor a Certificate of Insurance and, subsequently, any renewals thereof evidencing the insurance required by this Paragraph.

5.11. Patent Marking. Licensee shall mark each Royalty Bearing Product made, used, Sold or Otherwise Disposed of under this license with the following marking:

“Manufactured and sold under license of United States Patent Nos. [*Patent(s) being licensed*].”

5.12. Trademarks and Trade Names. The license herein granted conveys no right to Licensee to use or register any trademarks or trade names of the Licensor.

5.13. Preservation of Licensor's Rights. Licensor's grant of rights to Licensee pursuant to this Agreement shall in no way restrict Licensor's right to manufacture and sell products pursuant to the *[patent(s) being licensed]*.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives.

[LICENSEE]

By _____

Its _____

Date _____

[LICENSOR]

By _____

Its _____

Date _____

EXHIBIT C

NOTIFICATION OF AVAILABLE LICENSES

Miller Industries, Inc. and Miller Industries Towing Equipment, Inc. ("Miller Industries") have consented to the entry of the attached proposed Final Judgment to resolve a civil suit brought by the Antitrust Division of the Department of Justice. Under the proposed Final Judgment, Miller Industries is required to offer to any third party a non-exclusive license to make and sell products covered by one or more of the following United States Patents. Terms and maximum unit royalty rates for such licenses are specified below and in greater detail in Exhibit A to the Final Judgment:

No. 4,836,737 (the '737 Patent, also known as the L-Arm Patent)	\$125.00
No. 5,061,147 (the '147 Patent, also known as the "Independent Raise-and-Lower Patent")	\$150.00
No. 5,628,609 (the '609 Patent, also known as the "Backsaver" Patent)	\$150.00
The L-Arm and the Independent Raise-and-Lower Patents, together	\$175.00
The L-Arm and the Backsaver Patents, together	\$175.00

The proposed Final Judgment also requires Miller Industries to offer to any third party a non-exclusive license to certain improvements in the L-Arm wheel lift designs covered by United States Patent Nos. 4,637,623 and 4,798,509 (respectively the '623 and '509 Patents, also known as the "Improvement Patents"). Miller Industries will license the features under these Improvement Patents that allow the L-Arm wheel lift to pivot horizontally and vertically. Terms and maximum unit royalty rates for such licenses are specified below and in greater detail in Exhibit B to the Final Judgment:

Licensed Claims of the Improvement Patents	\$150.00
Licensed Claims of the Improvement Patents and the L-Arm Patent, together	\$175.00

These Improvement Patents ('623 and '509), originally owned by Vulcan International, Inc., embody improvements to the L-Arm wheel lift found on Vulcan products. Under the terms of this license, licensees will be able to use all features covered by the Improvement Patents (such as the horizontal and vertical pivoting of the L-arms) **except** for three features: (1) the vertical locking pin device, (2) the elongated curved wheel retainer plate, and (3) the wheel lift receiver placed completely above the cross bar.

Licensees under the Licensed Claims of the Improvements Patents will be able to make and sell many wheel lift devices covered by the claims being licensed, including Miller Industries' Century design, drawings of which are attached as Exhibits D and E to the Final Judgment. Licensees under the Licensed Claims of the Improvement Patents may also develop and produce their own independent

designs, so long as these do not include the three patented features mentioned above that are not being licensed.

If they want additional assurance that Miller Industries cannot charge their independent designs with infringement of the Unlicensed Claims of the Improvement Patents, licensees may, before marketing a product incorporating their independent design, elect to obtain a determination by an independent expert. Miller Industries will pay for the time that it takes the independent expert to become familiar with the Improvement Patents, and the licensee will pay for the expert's time required, after his/her familiarization, to make the determination. The independent expert's determination that a design is covered by the license under the Improvement Patents will be binding on Miller Industries. The independent expert will be required to keep the licensee's request for a determination, and the design for which the determination is requested, confidential from Miller Industries until the licensee begins selling products based on the design approved by the independent expert.

Section IV of the Final Judgment describes the requirements for these licenses. The licenses are available now and will continue to be available throughout the ten-year life of the Final Judgment. The licenses are uncancelable by Miller Industries during the life of the licensed patents, except on the ground of material breach (for instance, for non-payment of royalties), and in the unanticipated event that the Court declines to enter the proposed Final Judgment. In the event of license cancellation, a licensee will retain the right to sell at any time licensed products manufactured pursuant to the terms of the license.

Please contact Mr./Ms. _____ at Miller Industries [phone number] if you are interested in obtaining a license.