

## RESTRICTION ON TRANSFER AGREEMENT

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

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

(the "Vendor")

- and -

**407 ETR CONCESSION COMPANY LIMITED**, a corporation  
continued under the *Business Corporations Act* (Ontario)

(the "Company")

- and -

**1346292 ONTARIO INC.**, a corporation incorporated under the  
laws of Ontario

(the "Purchaser")

- 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")

### BACKGROUND:

1. The Vendor has agreed to sell all of the issued shares of the Company to the Purchaser pursuant to a share purchase agreement dated April 12, 1999 in order to transfer Highway 407 to the private sector.
2. The Company entered into the Highway 407 Concession and Ground Lease Agreement made as of April 6, 1999 with the Vendor pursuant to which the Vendor granted to the Company certain rights with respect to Highway 407, which include, *inter alia*, a long term ground lease of certain lands related to Highway 407.

3. Concurrent with the execution of the share purchase agreement, the Company, the Purchaser and the Equity Participants have agreed to enter into this agreement with the Vendor because the Vendor, as a matter of public policy, does not want the ownership of the shares of the Company to be transferred prior to the fifth anniversary of the Closing Date and accordingly wishes to prevent:
- (a) the Company, directly or indirectly, from disposing of (i) all or any of its assets or (ii) its future revenues, to a third party; and
  - (b) the Purchaser from disposing of any voting securities of the Company either (i) directly, or (ii) indirectly through a change of control of the Purchaser or an Equity Participant.

**IN CONSIDERATION** of the premises and the mutual agreements in this Agreement, and of other consideration (the receipt and sufficiency of which are acknowledged by each party), the parties agree as follows:

1. In this Agreement,

**"Affiliate"**, when used to indicate a relationship with a specified Person, means a Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with such specified Person;

**"Call Option"** has the meaning set forth in Section 7;

**"Change of Control"** means with respect to an Equity Participant which is not a Publicly Traded Equity Participant, any occurrence whereby a majority of the Voting Power relating to such Equity Participant is Disposed of to a Person or Persons (other than to an Affiliate of such Equity Participant) who do not have a majority of the Voting Power relating to such Equity Participant on the date hereof;

**"Control"** means, with respect to any Person, the ownership, control or direction, directly or indirectly, of a majority of the Voting Power of such Person and **"Controlled"** and **"Controls"** shall have a similarly extended meaning;

**"Concession Agreement"** means the Highway 407 Concession and Ground Lease Agreement between the Vendor and the Company made as of the 6<sup>th</sup> day of April, 1999;

**"Concessionaire's Interest"** has the meaning ascribed to that term by the Concession Agreement;

**"Default"** means with respect to an Equity Participant or the Purchaser, the taking of any action or suffering or permitting any action to be taken on the part of such Equity Participant or the Purchaser which would result in a breach of its obligations under this Agreement and includes the negotiation of any proposed Disposition of Securities and in

the case of an Equity Participant includes a Change of Control of such Equity Participant contrary to the provisions of Section 5;

**“Disposition”** means:

- (i) any Transfer of or the creation of any Encumbrance (other than a Permitted Encumbrance) on, any property, assets or securities of any kind; and
- (ii) any agreement to Transfer or to create an Encumbrance (other than a Permitted Encumbrance) on, any property, assets or securities of any kind,

and **“Dispose of”** has a corresponding meaning;

**“Encumbrance”** means any encumbrance of any kind whatever and includes a security interest, mortgage, lien, hypothec, pledge, hypothecation, assignment, charge, trust or deemed trust (whether contractual, statutory or otherwise arising), or any other right, option or claim of others of any kind and, with respect to any such right, option or claim, includes any of the foregoing which has the effect of (i) transferring any legal or beneficial interest in any Securities to any Person or (ii) permitting any Person to have control or direction over, any rights attached to any Securities;

**“Equity Security”** means any security or debt instrument of the Company or the Purchaser which is (i) entitled to a rate of return which varies with the profits or revenues of the Company or the Purchaser; or (ii) entitled to a fixed rate of return which is materially in excess of a commercial rate of return which would be charged by a *bona fide* Arm's Length lender or investor at the time of the issuance of such security or debt instrument and any securities which are convertible into or exchangeable for Voting Securities and any securities which entitle the holder thereof to purchase Voting Securities;

**“Insolvency Event”** means with respect to any Person:

- (i) the commencement of any *bona fide* proceeding, voluntary or involuntary pursuant to any statute relating to bankruptcy, insolvency, reorganization of debts, liquidation, winding up or dissolution, including any proceedings under the *Bankruptcy and Insolvency Act*, the *Companies' Creditors Arrangement Act* or the *Winding-up and Restructuring Act* and such proceeding is not terminated or permanently stayed within 90 days of its commencement; or
- (ii) the appointment (whether judicially or extra-judicially), in connection with the enforcement of any *bona fide* security, of any receiver, manager, receiver and manager, trustee, liquidator or Person with similar powers for such Person or in respect of all of its property and such appointment is not terminated or permanently stayed within 90 days of its having been made; and

- (iii) the enforcement of the rights of an encumbrancer under a *bona fide* Permitted Encumbrance and such enforcement is not terminated or permanently stayed within 90 days.

**"Permitted Encumbrance"** means any Encumbrance on Securities of the Company and/or the Purchaser in favour of a bona fide lender, in respect of indebtedness incurred in connection with the financing of the purchase of the Shares by the Purchaser or the construction of the Project by the Company or the operation of the Business, and any extension, renewal or refinancing of such indebtedness.

**"Project"** has the meaning ascribed to that term in the Concession Agreement;

**"Publicly Traded Equity Participant"** means any Equity Participant whose Voting Securities are listed on a recognized stock exchange, if more than a majority of the Voting Power attached to such Voting Securities is held by Persons who are not Affiliates of such Equity Participant;

**"Restricted Period"** means the period commencing on the date hereof and ending on the fifth anniversary of the Closing Date;

**"Securities"** means Voting Securities and Equity Securities;

**"Shares"** means the 1,000,001 issued common shares of the Company sold by the Vendor to the Purchaser pursuant to the SPA;

**"SPA"** means the share purchase agreement dated April 12, 1999 among the parties pursuant to which the Vendor agreed to sell all of the Shares to the Purchaser;

**"Transfer"** means any sale, assignment, lease, sublease, gift, exchange, transfer or other disposition, and the entry into any merger, amalgamation, consolidation or reorganization by an entity shall be deemed to be a "Transfer" for the purposes of this Agreement;

**"Voting Power"** means, with respect to outstanding Voting Securities, the highest number of votes that the holders of all such outstanding Voting Securities would be entitled to cast for the election of directors or, in the case of an entity which is not a body corporate, other persons who exercise management responsibilities similar to directors, assuming for purposes of this computation, the conversion of or exchange into Voting Securities of all securities which are convertible into or exchangeable for Voting Securities and the exercise of all rights attached to securities which entitle the holder thereof to purchase Voting Securities, to the full extent that any such action would increase the number of such votes; and

**"Voting Securities"** means

- (i) the common shares of a body corporate and all other securities of such body corporate of any kind or class having power to vote for the election of directors either under all circumstances or in certain circumstances or in

certain events (whether or not such circumstances or events exist or have occurred); and

- (ii) securities of an entity other than a body corporate which entitles the holder thereof to vote for the election or appointment of persons who exercise management responsibilities similar to directors of a body corporate, either under all circumstances or in certain circumstances or in certain events (whether or not such circumstances or events exist or have occurred).

Terms defined in the SPA and used herein have the same meaning herein as in the SPA, unless otherwise defined herein or unless the context otherwise requires.

## **2. Restriction on Sale of Assets**

The Company shall not, directly or indirectly, Dispose of all or any of the Concessionaire's Interest whether in one or a series of transactions during the Restricted Period provided that:

- (i) the Company may grant or permit to exist an Encumbrance on or of the Concessionaire's Interest during the Restricted Period to the extent provided by the terms of the Concession Agreement; and
- (ii) the Company may Dispose of any part of the Project which has become worn out, unserviceable, undesirable or unnecessary for use in the operation thereof.

Notwithstanding anything else contained in this Agreement or the Concession Agreement, if an Insolvency Event has occurred and is continuing with respect to the Company, then the Concessionaire's Interest may be Disposed of free of the restrictions of this Section 2. Notwithstanding the foregoing, the Company may Dispose of the Concessionaire's Interest for *bona fide* accounting and/or financing purposes to any Person which is wholly-owned, directly or indirectly, by one or more of the Equity Participants, provided that the Company and the transferee comply with any applicable provisions of the Concession Agreement.

## **3. No Disposition of Securities of Company**

The Purchaser shall not, directly or indirectly, Dispose of any Securities of the Company during the Restricted Period. No Encumbrance on or of such Securities shall be created or permitted by the Purchaser during the Restricted Period except for a Permitted Encumbrance. No Permitted Encumbrance on or of any such Securities shall be created or permitted by the Purchaser during the Restricted Period unless the encumbrancer agrees in writing with the Vendor to be bound by the provisions of this Agreement.

The Purchaser shall cause the Company not to issue any Securities of the Company to any Person, other than the Purchaser during the Restricted Period.

Notwithstanding anything else contained in this Agreement or the Concession Agreement, if an Insolvency Event has occurred and is continuing with respect to the Company,

then such Securities may be Disposed of by the holder of a Permitted Encumbrance in realizing on the security constituted by such Permitted Encumbrance, free of the restrictions of this Section 3.

**4. No Disposition of Securities of Purchaser**

Each Equity Participant shall not, directly or indirectly, Dispose of any Securities of the Purchaser, during the Restricted Period.

No Encumbrance on or of the Securities of the Purchaser shall be created or permitted by an Equity Participant during the Restricted Period except for a Permitted Encumbrance. No Permitted Encumbrance on or of such Securities shall be created or permitted by an Equity Participant during the Restricted Period unless the encumbrancer agrees in writing with the Vendor to be bound by the provisions of this Agreement.

The Equity Participants shall cause the Purchaser not to issue any Securities of the Purchaser to any Person, other than the Equity Participants during the Restricted Period.

Notwithstanding anything else contained in this Agreement or the Concession Agreement, if an Insolvency Event has occurred and is continuing with respect to the Company, then Securities of the Purchaser which are subject to a Permitted Encumbrance may be Disposed of by the holder of a Permitted Encumbrance in realizing on the security constituted by such Permitted Encumbrance, free of the restrictions of this Section 4.

**5. Change of Control of an Equity Participant**

No Change of Control with respect to an Equity Participant shall occur within the Restricted Period, provided that (subject to the restriction provided hereafter), this Section 5 shall not apply to an Equity Participant unless its investment in the Purchaser represents more than 50% of the book value of the assets of such Equity Participant as at the date of the Change of Control. Such determination shall be based on a balance sheet of the Equity Participant prepared in accordance with Canadian generally accepted accounting principles, consistently applied. Equity Participants who do not individually have an investment in the Purchaser of more than 50% of the book value of their assets, shall not, acting jointly or in concert, or in one or a series of transactions, undergo a Change of Control if as a result, the same Person or group of Persons indirectly acquires Control of the Purchaser.

**6. Certain Exceptions**

The provisions of Sections 3, 4 and 5 hereof shall not apply to

- (i) any amalgamation of the Purchaser and/or the Company with each other and/or another Person or Persons, so long as after such amalgamation, the amalgamated entity continues to be Controlled, directly or indirectly, by one or more of the Equity Participants, to at least the same extent as the Company and the Purchaser are Controlled by the Equity Participants at the Time of Closing and the amalgamated corporation agrees to become a party to and to be bound by the provisions of this Agreement applicable to the Purchaser and the Company; or

- (ii) any Disposition of Securities of the Purchaser, the Company or an Equity Participant, so long as after such Disposition, no Person other than an Equity Participant or a Person that is Controlled by one or more Equity Participants Controls, directly or indirectly, the Person who owns the Concessionaire's Interest provided that if such Disposition is made to an Affiliate of such Equity Participant, such Affiliate shall become a party to and agree to be bound by the provisions of this Agreement applicable to the Purchaser and an Equity Participant.

The Vendor may in its sole discretion consent in writing to any Disposition proposed to be made by a party hereto and any proposed Disposition which receives such consent shall not constitute a breach of or a Default under this Agreement. Any consent of the Vendor requested by a party, may be unreasonably withheld.

## **7. Remedies For Breach**

- 7.1 Disposition by Concessionaire.** - If all or any part of the Concessionaire's Interest is Disposed of contrary to the provisions of Section 2, the Equity Participants and the Purchaser shall jointly and severally pay to the Vendor the full amount of the proceeds of Disposition forthwith after such Disposition together with interest thereon at the Bank Rate, from the date of Disposition to the date of payment.
- 7.2 Default by Purchaser or Equity Participant.** - In order to secure performance of the Purchaser's and each Equity Participant's obligations under this Agreement, each Equity Participant hereby grants to the Vendor an option to purchase (a "Call Option") all of the Securities of the Purchaser or the Company owned by such Equity Participant directly or indirectly. Subject to Section 7.3, a Call Option shall become exercisable by the Vendor if there occurs within the Restricted Period a Default on the part of the Purchaser or such Equity Participant. The exercise price of a Call Option shall be the cost price of the Securities of the Purchaser or the Company owned directly or indirectly by the Equity Participant, net of any capital distributions on or on account of such Securities (the "Cost Price"). The Cost Price shall be determined based on the purchase price for the shares of the Company paid pursuant to the SPA or in the case of any Securities of the Company or the Purchaser acquired after the date hereof, the cost price to the Purchaser or the Equity Participant at the time such Securities were acquired by it. Each Equity Participant, the Purchaser and the Company shall provide all information over which it has control to the Vendor in order for the Vendor to calculate the Cost Price. If the parties are unable to agree on the Cost Price, it shall be settled pursuant to the dispute resolution procedures set forth in Article 8 of the SPA which shall apply *mutatis mutandis*.
- 7.3 Closing.** - If a Default occurs within the Restricted Period, the Vendor shall, within 30 days of the date that the Vendor became aware of such Default, give to the Defaulting Party notice of the Default specifying in reasonable detail the nature and particulars of the Default. The Defaulting Party shall have 90 days from receipt of such notice to remedy the Default. If such Default is not fully remedied by the last day of such 90 day period, (the "Effective Date"), then the Vendor may thereafter, by notice ("Exercise Notice") to the Defaulting Party, exercise the Call Option. The closing of the purchase and sale of the

Securities purchased pursuant to such Call Option, shall take place at the place specified in the Exercise Notice on the 20<sup>th</sup> Business Day after the Exercise Notice was given. On the closing, the Defaulting Party shall deliver to the Vendor certificates evidencing the Securities sold duly endorsed in blank for transfer and shall deliver to the Vendor a duly executed representation and warranty stating that the Defaulting Party has good and marketable title to such Securities free and clear of all Encumbrances (except for Permitted Encumbrances) and the Vendor shall pay the purchase price for such Securities to the Defaulting Party by bank draft or certified cheque. The Call Option shall expire, if unexercised, on the first anniversary of the Effective Date.

**7.4 Assignment.** - The Call Option and the rights of the Vendor under this Agreement which relate thereto, are transferable by the Vendor to any Person after the Effective Date, without the consent of the Company, the Purchaser or the Equity Participant.

## **8. Share Certificate Legend**

All certificates representing Securities of the Company or the Purchaser shall bear the following legend:

“The securities represented by this certificate are subject to the provisions of an agreement made the 12th day of April, 1999 which contains restrictions on the right to transfer, pledge and otherwise deal with such securities. Notice of such restrictions and of the other provisions of such agreement is hereby given.”

## **9. Right to Injunctive Relief and Specific Performance**

Each Equity Participant, the Purchaser and the Company acknowledge that a breach of any of the covenants or provisions contained herein would cause the Vendor to suffer loss which could not be adequately compensated for by damages and that the Vendor may, in addition to any other remedy or relief, enforce the performance of this agreement by injunction or specific performance upon application to a court of competent jurisdiction without proof of actual damage to the Vendor.

## **10. Notices**

All 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 and the Company:

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.

**11. General**

- 11.1 Invalidity.** - If any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction from which no further appeal lies or is taken, that provision shall be deemed to be severed from this Agreement, and the remaining provisions of this Agreement shall not be affected thereby and shall remain valid and enforceable.
- 11.2 Remedies Cumulative.** - The rights and remedies of the parties under this Agreement are cumulative and in addition to and not in substitution for any rights or remedies provided by law. Any single or partial exercise by any party hereto of any right or remedy for default or breach of any term, covenant or condition of this Agreement does not waive, alter, affect or prejudice any other right or remedy to which such party may be lawfully entitled for the same default or breach.
- 11.3 Provisions of SPA.** - The provisions of Section 1.2 and Sections 9.2, 9.3, 9.4 and 9.6 to 9.13 inclusive of the SPA shall apply to this agreement, *mutatis mutandis*.

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


By: \_\_\_\_\_

**407 ETR CONCESSION COMPANY LIMITED**

By:  \_\_\_\_\_ c/s


By:  \_\_\_\_\_

**1346292 ONTARIO INC.**

By:  c/s

By:   
Authorized Signing Officer

**SNC-LAVALIN INC.**

Per:  c/s  
Authorized Signing Officer

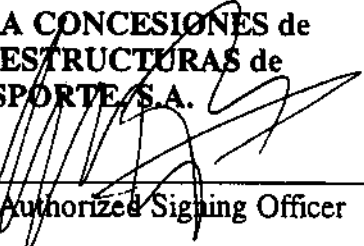
Per:   
Authorized Signing Officer

**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