

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person	General Motors Acceptance Corporation of Canada, Limited ("GMAC")
Date of Document	14 March 2003
Summary of Order/Relief Sought or Statement of Purpose in Filing	Security Agreement (Leasing) Application
Court Sub-File Number	7:34

2002 01 T0352

## IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

**IN THE MATTER OF** a Court ordered Receivership of Hickman Equipment (1985) Limited ("Hickman Equipment") pursuant to Rule 25 of the **Rules of the Supreme Court, 1986** under the **Judicature Act**, R.S.N.L. 1990, c. J-4, as amended

**AND IN THE MATTER OF** the **Bankruptcy and Insolvency Act**, Chapter B-3 of the Revised Statutes of Canada, 1985, as amended (the "BIA")

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**SUMMARY**

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- Memorandum of Argument
- Supporting Affidavits
  - Wende Rapson
  - Guy Brocks
  - Alex Traverse
  - Hubert Hunt
  - Thomas R. Kendell, Q.C.

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1. Certain creditors of Hickman Equipment have attempted to limit the security interest created by the Security Agreement (Leasing) ("ISA") with the following arguments:
  - A. That the word "vehicle" means cars and trucks.
  - B. That the security interest created is only valid as against those Vehicles that were held for lease by Hickman Equipment;
  - C. That the ISA only creates a security interest in Vehicles that were financed by GMAC;

A. **What Collateral does the word "Vehicle" describe**

2. The opening section of the ISA states:

**"In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for lease or which now or may be leased to the public, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto."**  
**(Note 'we' and 'us' refer to Hickman Equipment)**

3. The defined term "Vehicles" means:
  - (a) new and used vehicles (including chassis) acquired by Hickman Equipment from manufacturers, distributors and others;

- (b) which are held by Hickman Equipment for lease, and
  - (c) which includes all vehicles of like kinds or types now owned or hereafter acquired by Hickman Equipment.
4. Use of the word "equipment" is inadequate to describe collateral in a security agreement. (See Subsection 11(3) of the PPSA)
5. PPSA Regulation 2(h) states:

**"(h) "motor vehicle" means a mobile device that is propelled primarily by any power other than muscle power**

- (i) in, on or by which a person or thing may be transported or drawn, and that is designed for use on a road or natural terrain, or**
- (ii) that is being used in the construction or maintenance of roads,**

**and includes a pedal bicycle with a motor attached, a combine or a tractor, but does not include a device that runs on rails or machinery designed only for use in farming, other than a combine or a tractor."**

6. PPSA Regulation 2(p) states:

**"(p) "serial numbered goods" means a motor vehicle, trailer, mobile home, aircraft, boat or an outboard motor for a boat."**

7. Based upon PPSA registrations, most creditors of Hickman Equipment, including GMAC, regarded the collateral held as inventory by Hickman Equipment (namely, excavators, loaders, back hoes, pavers, trucks, graders, air drills, dozers, etc.) as "motor vehicles" and "serial numbered goods" and registered financing statements under the PPSA accordingly (See Affidavit of Thomas R. Kendell, Q.C.)

**NOTE:** As the collateral was inventory there was no requirement to register the collateral by serial number, however most creditors did so.

8. GMAC states that it is reasonable to interpret the word "vehicle" as describing a kind of collateral which would include a "motor" vehicle in addition to a vehicle which is propelled primarily by muscle power.

**B. Vehicles held for Lease**

9. GMAC states that all of the inventory of Hickman Equipment was available for lease. (See Affidavit of Hubert Hunt)

**C. Extent of Security Interest**

10. The charging section of the ISA states:

**"To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles leased by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws."**

11. First of all it is clear that the security interest granted secures "... collectively the payment of all amounts owing by us to GMAC including, without limitation ...".

12. The specific charging words are:

**"... we (Hickman Equipment) hereby grant ... and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired ..." (Parenthesis added)**

13. GMAC states that the plain meaning of the words referred to in Paragraph 12 herein is that a security interest is created in favour of GMAC in all of the vehicular inventory acquired Hickman Equipment.
14. GMAC states that the word "Vehicle" is defined in the opening section of the ISA and the words "so acquired" in the charging section have reference to the words in the opening section:

**"... we acquire new and used vehicles ..."**

and also

**"... "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us ...".**

15. GMAC states that there is no ambiguity in the wording of the ISA and effect should be given to its plain meaning.
16. Other sections of the ISA dealing with a negative pledge, ordinary course transactions, sale or lease of collateral and remedies upon default do not detract from the obligations secured or the collateral that is charged.
17. GMAC states that it is not appropriate to attempt to create an ambiguity where none otherwise exists.

18. GMAC states that its position regarding the effect of the ISA is not one of convenience or recent invention (See Affidavits of Wende Rapson and Guy Brocks).
19. The position of GMAC re the collateral charged is also held by its customers and their solicitors. (See Affidavit of Alex Traverse).
20. GMAC therefore requests this Honourable Court to find:

**"That the ISA creates a security interest in favour of GMAC in the vehicular inventory of Hickman Equipment including motor vehicles (as defined by subsection 2(h) of the PPSA Regulations) held for lease by Hickman Equipment."**

DATED at St. John's, Newfoundland and Labrador, this <sup>14</sup> day of March, 2003.



Thomas R. Kendell, ~~Q.C.~~  
McInnes Cooper  
Solicitors for General Motors Acceptance  
Corporation of Canada, Limited  
Whose address for service is:  
Suite 500, Baine Johnston Centre  
10 Fort William Place, P.O. Box 5939  
St. John's, NL A1C 5X4

(O:\tkendell\TK - 1041 - GMAC - Group Holdings\Pleadings\Summary - Docts Filed - Mar 14-03.wpd)

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person	General Motors Acceptance Corporation of Canada, Limited ("GMAC")
Date of Document	13 <sup>th</sup> March 2003
Summary of Order/Relief Sought or Statement of Purpose in Filing	Security Agreement (Leasing) Application Affidavit of Wende Rapson
Court Sub-File Number	7:34

2002 01 T0352

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR**

**IN THE MATTER OF** a Court ordered Receivership of Hickman Equipment (1985) Limited ("Hickman Equipment") pursuant to Rule 25 of the *Rules of the Supreme Court, 1986* under the *Judicature Act*, R.S.N.L. 1990, c. J-4, as amended

**AND IN THE MATTER OF** the *Bankruptcy and Insolvency Act*, Chapter B-3 of the Revised Statutes of Canada, 1985, as amended (the "BIA")

**AFFIDAVIT**

I, Wende Rapson, of Toronto, in the Province of Ontario, do hereby say as follows:

1. That I am Legal Counsel and Corporate Secretary of General Motors Acceptance Corporation of Canada, Limited ("GMAC"), the Applicant in the within Application, and as such have personal knowledge of the facts herein deposed to, except where otherwise stated.
2. That I am responsible for all legal matters concerning GMAC including approving the various security documents used by GMAC including the



-2-

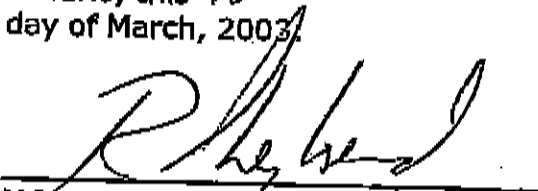
Security Agreement (Leasing) ("ISA") form, a copy of which is attached as Exhibit 1.

3. That the ISA is a security agreement which provides (a) an umbrella security agreement in the event that an asset specific security agreement is deficient, and (b) an additional security interest in vehicles not specifically financed by GMAC for all amounts that may be owing from a customer to GMAC at any particular time, especially in the event a customer became insolvent or was found to be bankrupt.
4. That on occasion a customer would request that GMAC amend the standard form ISA to limit the security interest to only vehicles upon the security of which GMAC had advanced financing. GMAC would consider each request and depending upon various business factors, would either accede to the request or not.
5. That an example where the ISA was amended at the request of a customer is shown in the internal memorandum between Mario Cassetta and myself dated May 19<sup>th</sup> 1998 together with the ISA as amended and attached hereto as Exhibit 2.
6. That a summary of the position of GMAC regarding the intent and the effect of the ISA as described above is contained in my e-mail to Sheldon Nicklin dated November 1<sup>st</sup> 2001 and attached as Exhibit 3.
7. That attached hereto as Exhibit 4 is a copy of a security agreement which my solicitor, Thomas Kendell, has advised has been provided by John Deere Ltd. in bankruptcy proceedings of Hickman Equipment (1985) Ltd ("HEL") (the "John Deere Security Agreement - Inventory").
8. That the John Deere Security Agreement - Inventory is an example of a security agreement which creates a security interest in only vehicles supplied or financed by the lender as opposed to a security interest in all vehicles of a debtor.

- 3 -

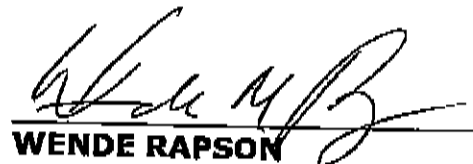
9. That the attached hereto as Exhibit 5 is a copy of a security agreement which my solicitor, Thomas Kendell, has advised has been produced by CIT Financial Ltd. in the bankruptcy proceedings of HEL (the "CIT General Security Agreement") and also a copy of the PPSA search report.
10. That the CIT General Security Agreement is an example of a security agreement which creates a security interest in all vehicles of the debtor (in fact in all of the personal property of the debtor) as opposed to a security interest in only those vehicles financed by CIT Financial Ltd.

**SWORN TO** before me at the City  
of Toronto, in the Province of  
Ontario, this 13<sup>th</sup>  
day of March, 2003.



**NOTARY PUBLIC IN AND FOR  
THE PROVINCE OF ONTARIO**

Ronald Shepherd, a Commissioner, etc.  
City of Toronto, for General Motors  
Acceptance Corporation of Canada, Limited  
Expires January 3, 2004

  
**WENDE RAPSON**

(G:\tkendell\TK - 1041 - GMAC - Group Holdings\Pleadings\Afdvt - Wende Rapson - Mar 10-03.wpd)

**EXHIBIT**1**SECURITY AGREEMENT (LEASING)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for lease or which now or may be leased to the public, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles leased by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall not use the Vehicles illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may lease the Vehicles in the ordinary course of business and all such Vehicles shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;
- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may

remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:

- (i) to take possession of the Vehicles or any part thereof;
- (ii) to carry on our business or any part thereof;
- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or in prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**ACCEPTED:**

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

Witness

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

02/19/03 TUE 10:10 FAX 416 207 4181

GMAC WHOLESALE

0002

07/14/88 14:38 FAX 416 234 8814

GMAC R.O.

0006

07/06/88 MON 11:13 FAX 416 207 4181

GMAC

0002

**EXHIBIT****"2"**

**GENERAL MOTORS ACCEPTANCE CORPORATION  
OF CANADA, LIMITED**  
Field Support Office

**FROM:** Wendie M. Rapson,  
Legal Counsel

**ADDRESS:** Canadian Head Office

**FROM:** Mario Cassetta

**ADDRESS:** Toronto Field Support Office

**SUBJECT:** Inventory Security Agreement -  
Holland Chevrolet Geo  
Oldsmobile Ltd.

**DATE:** May 18, 1998

July 6, 1999

The FSO received an executed Inventory Security Agreement (ISA) from the above mentioned dealer. This Motors Holding dealership has elected to make an unauthorized change to the ISA. The dealer has amended paragraph 3 on page 1 to change as required and has substituted the following "against which GMAC has advanced credit" (see attached copy).

Please advise if this change affects GMAC's security interests and if ISA is acceptable to GMAC as submitted.

Priority: Medium

Regards,

*Mario Cassetta*  
Senior Commercial Lending Analyst

MC/jmt

cc: TJG  
IFR

7/6/98  
Mario, this does not give us ~~all~~ all vehicles as security - only those which we have a chattel mortgage via a conditional sale contract. It "waters down" the agreement's scope. It still ~~will~~ assist us in the problem where our conditional sales contracts cannot be produced, but really gives us no additional security. Does retain right to cross-collateralize

ok to send  
m/5/17/98

**SECURITY AGREEMENT (SALES AND LEASING)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for sale or lease, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles held for sale or lease by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles ~~so acquired~~ and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for sale or lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall keep the Vehicles brand new and we shall not use them illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

*\* against which GMAC has advanced credit*

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We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may sell and lease the Vehicles in the ordinary course of business and all such Vehicles including those leased to the public shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;



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- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:
  - (i) to take possession of the Vehicles or any part thereof;

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- (ii) to carry on our business or any part thereof;
- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or is prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this 12 day of May, 1998.

ACCEPTED

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

BY [Signature]  
TITLE Assistant Secretary

HOLLAND CHEVROLET GEO  
OLDSMOBILE LTD.


BY [Signature]  
TITLE President

RESOLUTION OF THE BOARD OF DIRECTORS  
OF  
HOLLAND CHEVROLET GEO OLDSMOBILE LTD.

It was RESOLVED at a meeting of the Corporation held on the 5th day of May, 1998, that the President of the Corporation is hereby authorized and directed to execute a Security Agreement (Sales & Leasing) in the form presented to this board.

I, John C. Holland, President of Holland Chevrolet Geo Oldsmobile Ltd. certify the foregoing to be a true copy of a Resolution of the Board of Holland Chevrolet Geo Oldsmobile Ltd. which was passed by the Directors on the 5th day of May, 1998, and which remains in full force and effect, unamended, as at the date hereof.

DATED this 5th day of May, 1998.

  
President

**Kendell, Thomas**

From: sheldon.w.nicklin@gm.com  
Sent: Monday, March 10, 2003 11:19 AM  
To: thomas.kendell@mcinnescooper.com  
Subject: Re: Inventory Security Agreements

**EXHIBIT****3.**

pic16859.pcx



pic23646.pcx



Invsec.doc



pic00096.pcx



pic13029.pcx

behalf.

I am forwarding on Wende's

----- Forwarded by Sheldon W. Nicklin/CA/GMACFS/GMC on 03/10/2003 09:48 AM

(Embedded image moved to file: pic16859.pcx)

Wende M. Rapson

(Embedded image moved to file: pic23646.pcx)

11/01/2001 03:35 PM

To: Sheldon W. Nicklin@GMAC

cc: Ronald E. Polley@GMAC, Dan J. Cash@GMAC

Subject: Re: Inventory Security Agreements (Document link: Sheldon W. Nicklin (Archive))

Privileged and Confidential

The attached agreement is an unamended version of our Inventory Security Agreement. It was intended to cover all vehicle inventory - it does not only cover vehicles for which we have advanced specific funds - such as under a conditional sale contract or a chattel mortgage. The idea behind instituting it on a more widespread basis was two-fold - first of all, it gives us a safety net to use when/if we have difficulties producing conditional sale contracts. Secondly, it gives us a broader security base.

Now there are likely two reasons why there are conflicting opinions circulating around:

Often we have priority agreements in place which restricts our priority to GMAC financed vehicles - generally meaning those over which we have taken specific security. We still have security over other vehicles - it just ranks below that of the other secured party to the priority agreement. While it reduces the effectiveness of having an Inventory Security Agreement, it is still valuable to have as the bank could be bound to realize over other assets before turning to the vehicle inventory (a rule of law known as marshalling).

We have, at the request of certain dealers, amended the agreement to restrict it to GMAC financed vehicles. While this does not provide us with the broader security, it is still functional as a safety net tool.

I trust this answers your questions. Please let me know if I can be of further assistance.

Wende

(See attached file: Invsec.doc)

This communication is intended for use only by the individual to whom it is specifically addressed above and should not be read by or delivered to anyone other than that person. This material may contain and if so marked does contain privileged or confidential information that is protected by solicitor/client privilege. If you have received this in error, please notify us immediately by return email to the sender. Thank you for your co-operation and assistance.

Wende M. Rapson  
General Motors Acceptance Corporation of Canada, Limited  
3300 Bloor Street West - Suite 2800  
Toronto, Ontario  
M8X 2X5

ph 416.234.6313  
fax 416.234.6614

email - wende.rapson@gm.com

(Embedded Sheldon W. Nicklin  
image moved 11/01/2001 10:43 AM  
to file: (Embedded image moved to file: pic13029.pcx)  
pic00096.pcx)

To: Wende M. Rapson@GMAC  
cc: Ronald E. Polley@GMAC, Dan J. Cash@GMAC  
Subject: Inventory Security Agreements

Wende, further to our discussion, there seems to be some confusion as to what the standard ISA provides GMAC as a security interest. To ensure I understood correctly, please confirm that the standard ISA gives GMAC a security interest in ALL vehicle inventory, not just GMAC financed vehicle inventory. A written response would be appreciated outlining the various issues and conditions which I will then forward to the CLC's. This will hopefully limit further questions.

Thanks for your help.

**SECURITY AGREEMENT (LEASING ONLY)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for lease or which now are or may be leased to the public, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles leased by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall keep the Vehicles brand new and we shall not use them illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

Page 2

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may lease the Vehicles in the ordinary course of business and all such Vehicles shall continue as part of our inventory. Vehicles which are or have been leased by us to the public from time to time may be sold in the ordinary course of business when no longer required for leasing. As each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;

## Page 3

- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;
- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;



- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:
- (i) to take possession of the Vehicles or any part thereof;
  - (ii) to carry on our business or any part thereof;
  - (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
  - (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or is prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

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IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

ACCEPTED

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

(NAME OF LESSOR)

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

C/S

\_\_\_\_\_  
TITLE \_\_\_\_\_

## **SECURITY AGREEMENT (SALES AND LEASING)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for sale or lease, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles held for sale or lease by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for sale or lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall keep the Vehicles brand new and we shall not use them illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

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We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may sell and lease the Vehicles in the ordinary course of business and all such Vehicles including those leased to the public shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;

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- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:
  - (i) to take possession of the Vehicles or any part thereof;

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- (ii) to carry on our business or any part thereof;
- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or is prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

ACCEPTED

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

(NAME OF DEALER/LESSOR)

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

C/S

TITLE \_\_\_\_\_

**SECURITY AGREEMENT**  
**(Vehicles Held For Sale Only)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for sale, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles held for sale or lease by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for sale to the public in the ordinary course of business. Save as hereinafter provided we shall keep the Vehicles brand new and we shall not use them illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder

Page 2

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may sell the Vehicles in the ordinary course of business and all such Vehicles shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;



- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:

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- (i) to take possession of the Vehicles or any part thereof;
- (ii) to carry on our business or any part thereof;
- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or is prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

ACCEPTED

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

(NAME OF DEALER)

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

C/S

\_\_\_\_\_  
TITLE \_\_\_\_\_

**Kendell, Thomas**

---

**From:** guy.brocks@gm.com  
**Sent:** Thursday, March 13, 2003 11:32 AM  
**To:** Kendell, Thomas  
**Cc:** wende.rapson@gm.com  
**Subject:** Security Count

Attached is a more detailed accounting of our ISA's and GSA's for the Atlantic region.

----- Forwarded by Guy L. Brocks/CA/GMACFS/GMC on 03/13/2003 10:01 AM -----

Marcus A. Holm

03/13/2003 09:56  
AM

**To:** Guy L. Brocks@GMAC  
**cc:**  
**Subject:** Security Count

Dealers with an ISA only:	40
Dealers with a GSA only:	5
Dealers with a GSA and an ISA:	19
Leasing companies with an ISA only:	3
Leasing companies with a GSA and an ISA:	4

---

Number of GM Dealerships:	57
Number of Non-GM Dealerships:	7
Number of Leasing Companies:	7

**EXHIBIT****4****Kendell, Thomas**

From: guy.brocks@gm.com  
Sent: Thursday, January 16, 2003 4:51 PM  
To: Kendell, Thomas  
Subject: Re: Newfoundland PPSA

Here is an email regarding our decision to obtain ISA's.

----- Forwarded by Guy L. Brocks/CA/GMACFS/GMC on 01/16/2003 03:18 PM -----

Guy L. Brocks  
Sent by: Guy  
L. Brocks

12/09/1999  
02:06 PM

To: Marcus A. Holm@GMAC  
cc: Claude Villeneuve@GMAC  
Subject: Re: Newfoundland PPSA

Once I have confirmed that we are using the same ISA as in the Maritimes we must begin preparing these documents for the SPB.

----- Forwarded by Guy L. Brocks on 12/09/99 02:08 PM -----

William A. Primeau  
12/09/99 01:55 PM

To: Guy L. Brocks@GMAC  
cc: Anthony L. Byrne@GMAC  
Subject: Re: Newfoundland PPSA (Document link not converted)

I agree. It is important that we all understand that the signing of the Inventory Security Agreements will NOT mean the release of the existing debentures, as they remain the underlying security for inventories on ground as of the date that PPSA goes into effect.

Guy L. Brocks  
09/12/99 02:23 PM

To: William A. Primeau@GMAC  
cc:  
Subject: Newfoundland PPSA

With the introduction of PPSA in Newfoundland I would prefer that we obtain ISA's on our dealers immediately rather than wait until the dealer goes over there current debenture amount as this would make the follow-up for them much easier. It may also make acceptance of the ISA more palatable for the dealers if we do it shortly after introduction of PPSA. If you agree we will prepare them and forward the ISA's to Tony early January. Perhaps you could mention ISA's in your PPSA bulletin to the dealerships.

Kendell, Thomas

---

From: guy.brocks@gm.com  
Sent: Thursday, January 16, 2003 4:55 PM  
To: Kendell, Thomas  
Subject: Re: ISA



Mac Word 3.0

FYI

----- Forwarded by Guy L. Brocks/CA/GMACFS/GMC on 01/16/2003 03:25 PM -----

Wende M.  
Rapson

01/07/2000  
02:39 PM

To: Guy L. Brocks@GMAC  
cc: Claude Villeneuve@GMAC, Marcus A.  
Holm@GMAC  
Subject: Re: ISA(Document link not converted)

Yes.

Guy L. Brocks  
01/07/2000 02:30 PM

To: Wende M. Rapson@GMAC  
cc: Claude Villeneuve@GMAC, Marcus A. Holm@GMAC  
Subject: ISA

Attached is the ISA we have been using for the Maritime provinces. Please advise if this ISA is acceptable for our Newfoundland dealers as well. Thanks.

(See attached file: Isa.doc)

-Hickman Equipment  
-Lab Motors  
-Woodward Motors

----- Forwarded by Marcus A. Holm on 06/19/2000 10:20 AM -----

Anthony L. Byrne  
03/23/2000 02:52 PM

To: Guy L. Brocks@GMAC  
cc: Marcus A. Holm@GMAC, William A. Primeau@GMAC  
Subject: Re: ISA's (Document link not converted)

Guy,  
Deckers ISA was sent to you in February. I should have Hickman Equipments ISA tomorrow. I spoke to Eric Clarke at Crossroads on Tuesday 3/21 and he said he would sign his on Monday 3/27. I will follow Bob Kinsella at Freshwater today and Dennis White at Lab /Woodwards today as well. Centsible and Terra Nova were explained as per WAP's LN to you.

Guy L. Brocks  
03/23/2000 10:41 AM

To: Anthony L. Byrne@GMAC  
cc: Marcus A. Holm@GMAC, William A. Primeau@GMAC  
Subject: ISA's

Below is a list of Newfoundland dealers which we still have not received a signed ISA. Please advise when we anticipate receiving these documents.  
Thanks.

Centsible Limited  
Crossroads Pontiac Buick Limit  
Decker Motors Limited  
Freshwater Auto Centre Ltd.  
Hickman Equipment  
Labrador Motors Limited  
Terra Nova Motors Limited  
Woodward Motors Limited

**Kendell, Thomas**

**From:** guy.brocks@gm.com  
**Sent:** Thursday, January 16, 2003 4:57 PM  
**To:** Kendell, Thomas  
**Subject:** Re: ISA's

This note specifically refers to Hickman Equipment. As you can see we were following from early 2000 to June, when it was finally obtained.

----- Forwarded by Guy L. Brocks/CA/GMACFS/GMC on 01/16/2003 03:25 PM -----

Anthony L.  
Byrne

06/19/2000  
12:10 PM

To: Guy L. Brocks@GMAC  
cc: Marcus A. Holm@GMAC, Scott B. Styles@GMAC  
Subject: Re: ISA's (Document link not converted)

Bill is dealing with Wendy Rapson on the Centsible, Terra Nova ISAs, Gary Bishop is checking on the Hickman Equipment ISA and Scott will be going to Labrador next week to get the Woodward/Labrador ISAs completed.

Marcus, can you send Scott a copy of the Woodward/Labrador ISAs in case the dealer no longer can find the copy previously sent.

Guy L. Brocks  
06/19/2000 12:09 PM

To: Anthony L. Byrne@GMAC  
cc:  
Subject: Re: ISA's

Make a comment on each of the appropriate ROM screens and we can get an answer on Thursday.

----- Forwarded by Guy L. Brocks on 06/19/2000 10:41 AM -----

Marcus A. Holm  
06/19/2000 10:22 AM

To: Guy L. Brocks@GMAC  
cc:  
Subject: Re: ISA's

Has there been any progress/update on getting the ISA's for the following dealerships:

-Centsible  
-Terra Nova

**EXHIBIT****5****SECURITY AGREEMENT (LEASING)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for lease or which now or may be leased to the public, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessories thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles leased by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security law.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall not use the Vehicles illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.



We understand that we may lease the Vehicles in the ordinary course of business and all such Vehicles shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;
- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable law shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may

remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:

- (i) to take possession of the Vehicles or any part thereof;
- (ii) to carry on our business or any part thereof;
- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or in prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this 25th day of January, 2000.

**ACCEPTED:**

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

HICKMAN EQUIPMENT (1985) LIMITED

BY [Signature]

TITLE [Signature]

BY [Signature]

TITLE DIRECTOR

Witness

BY [Signature]

TITLE [Signature]

03/13/2003 12:21 FAX 8024575328

GMAC HALIFAX

004

002

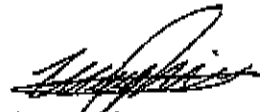
**EXHIBIT****6****General Motors Acceptance Corporation  
of Canada, Limited**P. O. Box 8030, Stn. A, Halifax, NS B3K 5L2  
1-800-808-0169**BULLETIN**

May 11, 2001

**TO: SELECTED GENERAL MOTORS DEALERS****RE: REVISED FIXED LEASING AND RENTAL RATES**

Based on recent trends in the capital markets associated with borrowing costs, GMAC is pleased to announce a decrease in the increment for your account and accordingly, your fixed rates effective Monday, May 14, 2001 are 6.95 % (1 to 24 months), 7.20 % (25 to 48 months) and 7.50 % (over 48 months).

Please feel free to contact GMAC at 1-800-808-0169 with any questions.

W. A. Primeau  
FSO Manager

# STEWART MCKELVEY STIRLING SCALES

BARRISTERS • SOLICITORS  
TRADEMARK AGENTSCahot Place  
Suite 1100  
100 New Gower Street  
St. John's, Nfld  
Canada A1C 6K3Correspondence:  
P.O. Box 5038  
St. John's, Nfld  
Canada A1C 5V3Telephone: 709.722.4270  
Fax: 709.722.4565  
st-johns@smss.com  
www.smss.comErnest G. Reid, Q.C.  
Direct Dial: 709.570.8825  
eruid@smss.com**EXHIBIT**7**JOHN DEERE CREDIT INC.****PURCHASE MONEY SECURITY INTEREST NOTICE****BY REGISTERED MAIL**General Motors Acceptance Corporation of Canada, Limited  
Suite 310  
455 Fenelon Blvd.  
Dorval, Quebec  
H9S 5K1

93 DEC 22 10:11

Mr. Guy Brocks  
General Motors Acceptance Corporation of Canada, Limited  
255 Lacewood Drive, Suite 210  
Halifax, NS  
B3M 4G2**Re: HICKMAN EQUIPMENT (1985) LIMITED (the "Debtor")**

John Deere Credit Inc. ("Secured Party") has registered a Financing Statement under the *Personal Property Security Act* bearing registration number 5504 and hereby notifies you that it has acquired or expects to acquire a Purchase Money Security Interest in inventory of the Debtor which is supplied from time to time by the Secured Party to the Debtor including:

All present and after-acquired goods, supplied by the secured party to the debtor or supplied to the debtor by others and financed by the secured party, whether held as inventory or otherwise, all present and after-acquired chattel paper, accounts, all money, securities, instruments and intangibles held in or representing the same, together with all attachments, accessories, accessions, replacements, substitutions, additions and improvements thereto and all proceeds of the foregoing in any form, including goods, documents of title, chattel paper, securities,

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instruments, money and intangibles derived directly or indirectly from any dealing with the collateral and a right to an insurance payment or any other payment that indemnifies or compensates for loss or damage to the collateral or the proceeds of the collateral.

This Notice is provided to you pursuant to Section 35(2) of the *Personal Property Security Act*.

DATED this 14<sup>TH</sup> day of December, 1999.

STEWART McKELVEY STIRLING SCALES  
SOLICITORS FOR JOHN DEERE CREDIT INC.

Per:



ERNEST G. REID, Q.C.

**STEWART MCKELVEY STIRLING SCALES**BARRISTERS • SOLICITORS  
TRADEMARK AGENTSCabot Place  
Suite 1100  
709.570.8825  
100 New Gower Street  
St. John's, Nfld  
Canada A1C 6K3Correspondence:  
P.O. Box 5038  
  
St. John's, Nfld  
Canada A1C 5V3Telephone: 709.722.4270  
Fax: 709.722.4565  
  
st-johns@smss.com  
www.smss.comErnest G. Reid, Q.C.  
Direct Dial:  
  
ereid@smss.com**JOHN DEERE LIMITED****PURCHASE MONEY SECURITY INTEREST NOTICE****BY REGISTERED MAIL**General Motors Acceptance Corporation of Canada, Limited  
Suite 310  
455 Fenelon Blvd.  
Dorval, Quebec  
H9S 5K1Mr. Guy Brocks  
General Motors Acceptance Corporation of Canada, Limited  
255 Lacewood Drive, Suite 210  
Halifax, NS  
B3M 4G2

99 DEC 22 10:11

**Re: HICKMAN EQUIPMENT (1985) LIMITED (the "Debtor")**

John Deere Limited ("Secured Party") has registered a Financing Statement under the *Personal Property Security Act* bearing registration number 5595 and hereby notifies you that it has acquired or expects to acquire a Purchase Money Security Interest in inventory of the Debtor which is supplied from time to time by the Secured Party to the Debtor including:

All present and after-acquired goods, supplied by the Secured Party to the Debtor or supplied to the Debtor by others and financed by the Secured Party, whether held as inventory or otherwise, all present and after-acquired chattel paper, accounts and the Debtor's contingent earnings account and reserve account described in any of the Debtor's finance and leasing agreements in effect from time to time, all goods, documents of title, chattel paper, securities,

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instruments, money and intangibles held in or representing the same, together with all attachments, accessories, accessions, replacements, substitutions, additions and improvements thereto and all proceeds of the foregoing in any form, including goods, documents of title, chattel paper, securities, instruments, money and intangibles derived directly or indirectly from any dealing with the collateral and a right to an insurance payment or any other payment that indemnifies or compensates for loss or damage to the collateral or the proceeds of the collateral.

This Notice is provided to you pursuant to Section 35(2) of the *Personal Property Security Act*.

DATED this 14<sup>TH</sup> day of December, 1999.

STEWART McKELVEY STIRLING SCALES

SOLICITORS FOR JOHN DEERE LIMITED

Per:

  
ERNEST G. REID, Q.C.

# STEWART MCKELVEY STIRLING SCALES

BARRISTERS • SOLICITORS  
TRADEMARK AGENTS

Cable Plant  
Suite 1100  
100 New Street  
St. John's, NL  
Canada A1C 6K3

Correspondence:  
P.O. Box 5038  
St. John's, NL  
Canada A1C 5V3

Telephone: 709.722.4370  
Fax: 709.722.4363  
stjohns@smss.com  
www.smss.com

Neil L. Jacobs  
Direct Line: 709.570.8886  
njacobs@smss.com

March 13, 2000

NF8090-25

**VIA FACSIMILE**  
No. 902-457-5820

General Motors Acceptance Corporation  
of Canada, Limited  
25 Lacewood Drive, Suite 210  
P. O. Box 8030, Station A  
Halifax, Nova Scotia  
B3K 5L8

Attention: Mr. Gay Brooks

Dear Sirs:

Re: **Hickman Equipment (1985) Limited**  
**Financing with ABN AMRO Leasing**


We write in relation to the captioned financing.

We enclose herewith a no interest letter respecting a financing by Hickman Equipment (1985) Limited which we request that you please have executed and returned to the undersigned at your earliest convenience.

We thank you in advance for your cooperation and look forward to hearing from you.

Yours very truly,

**STEWART MCKELVEY STIRLING SCALES**

  
Neil L. Jacobs  
NJL/jcs  
Enc

RECEIVED AT 10:00 March 14 Hickman Equipment Ltd 100-100

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ABN AMRO Leasing, a Division of  
ABN AMRO Bank Canada  
5515 North Service Road  
Burlington, Ontario  
L7L 6G4

April 13, 2000

Re: **Hickman Equipment (1985) Limited**  
**P. O. Box 820, Topsail Road West**  
**Mount Pearl, Newfoundland, A1N 308**  
**(Debtor)**

To Whom It May Concern:

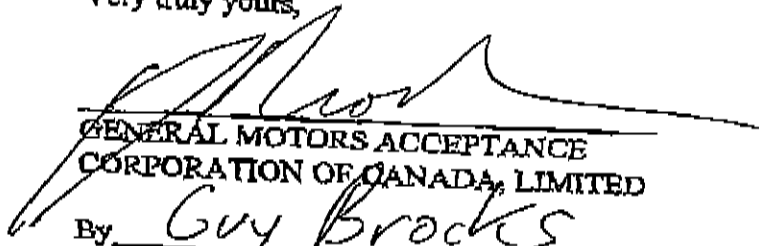
We are the secured party under certain registrations made against the Debtor under the *Registration of Deeds Act* ("RDA"). We are advised that you propose to establish certain credit facilities in favour of the Debtor and that you have requested this letter as a condition to the establishment of such credit facilities.

In consideration of the establishment of your financing arrangements with the Debtor, we confirm that we have no interest in the property charged by your Chattel Mortgage as more particularly described in Schedule "A".

We will not assign or transfer our security to any person without giving you three business days prior written notice and obtaining from any assignee or transferee an agreement in the same form as this agreement.

This letter may be relied upon by you and your successors and assigns but not by any other party.

Very truly yours,

  
GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

By Guy Brocks

Title ASSISTANT SECRETARY

\*\*\*\*\* SELECTED \*\*\*\*\*

**SCHEDULE "A"**

Quantity	Equipment Name/Model Number	Serial Number/ID
1	450LC Base Excavator	FF0450X090477
1	TC54H T.C. Loader	DWTC54H575868
1	624H 4WD Loader	DW624HX576034

Hickman Equipment

**Facsimile**

---

**207 Queens Quay West, Suite 700, Toronto, Ontario, M5J 1A7**

---

**To:** GMAC OF CANADA  
**ATTN:** Judy McDougall  
**From:** David Langford**Fax:** 800-652-6166**To:** Tel: (416) 233-4073**Fax:** (905) 633-3306**Date:** July 10, 2000**Pages:** 7**Subject:** GMAC OF CANADA

---

Attached is a waiver letter for the equipment Newcourt Financial Ltd. will be financing to our mutual customer.

This letter has been sent because your organization shows up as a Secured Creditor against our mutual client. The collateral classification(s) that you have registered under, indicates that your organization could have a lien against the asset or assets that we are financing.

In order to perfect our security interest in the item(s) and ensure our entitlement to the asset(s) that we are financing, we are required to send our waiver letters to all Secured Creditors that may have an vested interest in the item(s) on the following Schedule A

Please sign the following waiver letter if your organization does not have an interest in the asset(s) that Newcourt Financial Ltd is financing and fax it back to 905-633-3306.

Thank you

*David Langford* per: (905) 633-3306  
David Langford  
Account Executive

**WAIVER**

NEWCOURT FINANCIAL LTD.  
207 Queens Quay West, Suite 700, Toronto, Ontario, M5H 1A7

**VIA FAX****DATE: July 10, 2000****TO: GMAC OF CANADA****RE: Hickman Equipment (1985) Ltd.**

Newcourt Financial Ltd. ("Newcourt") has or will be entering into, or taking assignment of, a lease agreement, a conditional sales contract, or a security agreement (the "Contract") with the above mentioned Obligor, to lease to, or finance for the Obligor, the equipment described in Schedule "A" hereto, together with all attachments, accessions, replacements and/or additions thereto (the "Equipment").

Under the terms of the Contract, Newcourt has or will obtain title to and/or has or will obtain a security interest in or lien on the Equipment and the proceeds thereof (collectively, the "Collateral").

A search of the public records indicates that you may have security in the Collateral.

Please indicate, by signing below, that you acknowledge that you have not assigned your security interest and that you do not have and will not in future claim any right, interest, charge or security interest in the Collateral which ranks in priority to the right, title, interest, hypothec, charge and security interest now or hereafter held by Newcourt in the Collateral. For greater certainty, you are acknowledging and agreeing that, as against you, Newcourt shall have a first priority, right, title, interest, charge and security interest in the Collateral.

Sincerely,

David Langford  
Account Executive

For valuable consideration, and recognizing that Newcourt is relying on this acknowledgment in entering into the Contract referred to herein, we hereby acknowledge and agree that we do not have and will not claim any right, interest, hypothec, charge or security interest in the Collateral which ranks prior to the right, title, interest, charge and security interest now or hereafter held by Newcourt in the Collateral, and we hereby postpone and subordinate to Newcourt for all purposes all rights, title, interests, charges and security interests that we may have at any time now or hereafter have or acquire in the Collateral to all the rights, title, interests, hypothec, charges and security interests that Newcourt may now have or hereafter acquire in the Collateral.

Dated this 10 day of July 2000.

Secured Creditor: **GMAC OF CANADA**

Per.

# SCHEDULE "A"

Equipment

Serial Number

SEE ATTACHED SCHEDULES 1,2,3,4.

Dated this 10 day of July 2000.

GMAC OF CANADA

Per 

#1



NEWCOURT FINANCIAL LTD.  
Newcourt Centre  
207 Queen Quay West, Suite 700  
Toronto, Ontario M5J 1A7

**SCHEDULE A**

Attached to and forming part of the Security Agreement, dated July, 2000, between

**HICKMAN EQUIPMENT (1985) LIMITED**

as Borrower and Newcourt Financial Ltd. as Lender.

STK #	MODEL	DESCRIPTION	SERIAL#	LOCATION
R650R	XP825	I-R XP825WCU COMPRE	175545	ON RENT - ABITIBI (URI)
R635	ECM350	AIR TRACK	CB7361	ON RENT - ASPEN COVE
R652R	ECM350	AIR TRACK	BY7085	ON RENT - ABBOTT BROTHERS
R658	XP825	I-R XP825WCU COMPRE	184609	ON RENT - ASPEN COVE
R652	XP825	I-R XP825WCU COMPRE	178828	ON RENT - ABBOTT BROTHERS
N1089	ECM350	AIR TRACK	R10025	ON RENT - MARINE CONTRACTORS
R650	ECM350	AIR TRACK	CB7385	ON RENT - LABRADOR EQUIP. & MINING
R554	XP825	I-R XP825WCU COMPRE	183168	ON RENT - MARINE CONTRACTORS
R581R	XP825	I-R XP825WCU COMPRE	188847	ON RENT - MARINE CONTRACTORS
R618	ECM350	AIR TRACK	4184	ON RENT - RDN CONSTRUCTION
R623	ECM350	AIR TRACK	242657	ON RENT - RDN CONSTRUCTION
R627	ECM350	AIR TRACK	4260	IN STOCK - GRAND FALLS
R628	ECM350	AIR TRACK	4259	ON RENT - BUDGELL'S EQUIPMENT
R632	ECM350	AIR TRACK	CB7240	ON RENT - ACCESS DRILLING
R639	ECM350	AIR TRACK	R10082	ON RENT - H. WAREHAM & SONS
R640	ECM350	AIR TRACK	R10083	ON RENT - B & R ENTERPRISES
R644	ECM350	AIR TRACK	CB7487	ON RENT - B & R ENTERPRISES
R649	XP825	I-R XP825WCU COMPRE	175544	ON RENT LABRADOR EQUIP. & MINING
R657	XP825	I-R XP825WCU COMPRE	184608	ON RENT - B & R ENTERPRISES
R580	XP825	I-R XP825WCU COMPRE	188846	IN STOCK - MOUNT PEARL
R568	XP825	I-R XP825WCU COMPRE	183210	ON RENT - B & R ENTERPRISES
R587R	XP825	I-R XP825WCU COMPRE	188179	IN STOCK - GRAND FALLS

LENDER: NEWCOURT FINANCIAL LTD.

Borrower: **HICKMAN EQUIPMENT (1985) LIMITED**

PER: \_\_\_\_\_

PER: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

cmr15cmr01.doc 10/03/00

#2



NEWCOURT FINANCIAL LTD.  
Newcourt Centre  
207 Dundas Street West, Suite 700  
Toronto, Ontario M5G 1A7

## SCHEDULE A

Attached to and forming part of the Security Agreement, dated July 20 02 between

HICKMAN EQUIPMENT (1985) LIMITED

as Borrower and Newcourt Financial Ltd. as Lender,

R834	ECM350	AIR TRACK	CB7242	ON RENT - BARKER'S CONSTRUCTION	✓
R820	ECM350	AIR TRACK	4244	ON RENT LABRADOR EQUIP. & MINING	✓
R822	ECM350	AIR TRACK	242848	ON RENT - RDN CONSTRUCTION	✓
R625	ECM350	AIR TRACK	54257	ON RENT - ISLAND CONSTRUCTION	✓
R829	ECM350	AIR TRACK	T38078	ON RENT - PENNEY CONSTRUCTION	✓
R831	ECM350	AIR TRACK	CB7238	IN STOCK - MOUNT PEARL	✓
R837	ECM350	AIR TRACK	CB7371	ON RENT - ROCK CONSTRUCTION (URI)	✓
R838	ECM350	AIR TRACK	R10084	ON RENT - COUGAR ENGINEERING	✓
R642	ECM350	AIR TRACK	R10081	ON RENT - COUGAR ENGINEERING	✓
R643	ECM350	AIR TRACK	BY7073	ON RENT - ACCESS DRILLING	✓
R851	ECM350	AIR TRACK	54201	ON RENT - PREMIER CONSTRUCTION	✓
C000091	XP825	I-R XP825WCU COMPRE	183577	ON RENT - RDN CONSTRUCTION	✓
C000084	XP825	I-R XP825WCU COMPRE	207880	ON RENT - RDN CONSTRUCTION	✓
C000085	XP825	I-R XP825WCU COMPRE	207010	ON RENT - ACCESS DRILLING	✓
C000097	XP825	I-R XP825WCU COMPRE	173645	ON RENT - COUGAR ENGINEERING	✓
N1087	XP825	I-R XP825WCU COMPRE	V88497	ON RENT - COUGAR ENGINEERING	✓
R648R	XP825	I-R XP825WCU COMPRE	152824	ON RENT - MELVILLE FOREST PRODUCTS	✓
R651	XP825	I-R XP825WCU COMPRE	178925	ON RENT - RDN CONSTRUCTION	✓
R562	XP825	I-R XP825WCU COMPRE	183169	ON RENT - PENNEY CONSTRUCTION	✓
R558	XP825	I-R XP825WCU COMPRE	186188	ON RENT - PENNEY CONSTRUCTION	✓
R583	XP825	I-R XP825WCU COMPRE	192568	IN TRANSIT - GRAND FALLS	✓
R584	XP825	I-R XP825WCU COMPRE	192567	ON RENT - ROCK CONSTRUCTION (URI)	✓
R585R	XP825	I-R XP825WCU COMPRE	181894	ON RENT - RDN CONSTRUCTION	✓
R688	XP825	I-R XP825WCU COMPRE	189185	ON RENT - COUGAR ENGINEERING	✓
R581	XP825	I-R XP825WCU COMPRE	173408	ON RENT - ISLAND CONSTRUCTION	✓
R582	XP825	I-R XP825WCU COMPRE	173408	ON RENT - PREMIER CONSTRUCTION	✓

LENDER: NEWCOURT FINANCIAL LTD.

Borrower: HICKMAN EQUIPMENT (1985) LIMITED

PER: \_\_\_\_\_

PER: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

cdpnscheca.doc 10/02/02



#3.



NEWCOURT FINANCIAL LTD.  
Newcourt Centre  
257 Queen's Quay West, Suite 700  
Toronto, Ontario M5J 1A7

## SCHEDULE A

Attached to and forming part of the Security Agreement \_\_\_\_\_ dated July 2000, between

HICKMAN EQUIPMENT (1985) LIMITED as Borrower and Newcourt Financial Ltd. as Lender.

R848	ECM350	AIR TRACK	C87388	ON RENT - B & R ENTERPRISES
R854	ECM350	AIR TRACK	BY7148	ON RENT - H. WAREHAM & SONS
R583	XP825	I-R XP825WCU COMPRE	173411	IN STOCK - MOUNT PEARL
C000088	XP825	I-R XP825WCU COMPRE	205742	ON RENT - BUDGELL'S EQUIPMENT
C000090	XP825	I-R XP825WCU COMPRE	192810	IN TRANSIT - MOUNT PEARL
C000092	XP825	I-R XP825WCU COMPRE	206642	IN STOCK - GRAND FALLS
C000093	XP825	I-R XP825WCU COMPRE	208842	ON RENT - H. WAREHAM & SONS
C000096	XP825	I-R XP825WCU COMPRE	208490	ON RENT - H. WAREHAM & SONS

LENDER: NEWCOURT FINANCIAL LTD.

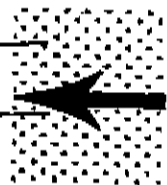
Borrower: HICKMAN EQUIPMENT (1985) LIMITED

PER: \_\_\_\_\_

PER: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_



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NEWCOURT FINANCIAL LTD.  
207 Queen Street West, Suite 700  
Toronto, Ontario M5H 1A7

# SCHEDULE A

Attached to and forming part of the Security Agreement dated July 199 between  
HICKMAN EQUIPMENT (1985) LIMITED as Borrower and Newcourt Financial Ltd. as Lender,

ONE 744H LOADER SER# DW744HX577272 ✓ ONE 310SE BACKHOE LOADER SER# T0310SE889704 ✓  
ONE 744H LOADER SER# DW744HX576819 ✓ ONE 544H LOADER SER# DW544HX577180 ✓  
ONE 744H LOADER SER# DW744HX577308 ✓ ONE 200LC EXCAVATOR SER# FF0200X501345 ✓  
ONE 200LC EXCAVATOR SER# FF0200X501362 ✓  
ONE 450H CRAWLER DOZER SER# T0450HX889199 ✓  
ONE 850C CRAWLER DOZER SER# T0850CX888907 ✓  
~~ONE 744H LOADER SER# DW744HX577272~~  
ONE TC44H LOADER SER# DWTC44H577307 ✓  
ONE 644H LOADER SER# DW644HX577276 ✓  
ONE 200LC EXCAVATOR SER# FF0200X501393 ✓  
ONE 200LC EXCAVATOR SER# ~~FF0200X501391~~ FF0200X501391 ✓  
ONE 310SE BACKHOE LOADER SER# T0310SE889712 ✓  
~~ONE 624H LOADER SER# DW624HX577306~~  
ONE 200LC EXCAVATOR SER# FF0200X501358 ✓

LENDER: NEWCOURT FINANCIAL LTD.

Borrower: HICKMAN EQUIPMENT (1985) LIMITED

PER: \_\_\_\_\_

PER: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

copy to be made, one 1008/98

# STEWART MCKELVEY STIRLING SCALES

BARRISTERS - SOLICITORS  
TRADEMARK AGENTS

Cabot Place  
Suite 1100  
100 New Gower Street  
St. John's, Nfld  
Canada A1C 6K3

Correspondence:  
P.O. Box 5038  
St. John's, Nfld  
Canada A1C 5V3

Telephone: 709.722.4270  
Fax: 709.722.4365  
stjohns@smss.com  
www.smss.com

Neil L. Jacobs  
Direct Dial: 709.570.8888  
njacobs@smss.com

April 13, 2000

NF8090-26

**VIA FACSIMILE**  
**No. 902-457-5820**

General Motors Acceptance Corporation  
of Canada, Limited  
25 Lacewood Drive, Suite 210  
P. O. Box 8030, Station A  
Halifax, Nova Scotia  
B3K 5L8

Attention: Mr. Guy Brooks

Dear Sirs:

Re: **Hickman Equipment (1985) Limited**  
**Financing with ARN AMRO Leasing**

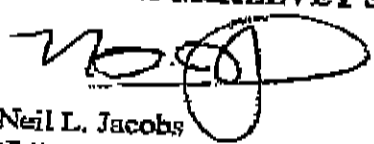
We write in relation to the captioned financing.

We enclose herewith a no interest letter respecting a financing by Hickman Equipment (1985) Limited which we request that you please have executed and returned to the undersigned at your earliest convenience.

We thank you in advance for your cooperation and look forward to hearing from you.

Yours very truly,

**STEWART MCKELVEY STIRLING SCALES**

  
Neil L. Jacobs  
NLJ/sca  
Encl.

P:\DATA\2000\Hickman - NLJ\No Interest Letter.wpd

CHARLOTTETOWN • FREDERICTON • HALIFAX • MONCTON • SAINT JOHN • ST. JOHN'S • SYDNEY

ABN AMRO Leasing, a Division of  
ABN AMRO Bank Canada  
5515 North Service Road  
Burlington, Ontario  
L7L 6G4

3/15, 2000

Re: **Hickman Equipment (1985) Limited**  
**P. O. Box 820, Topsail Road West**  
**Mount Pearl, Newfoundland, A1N 3G8**  
**(Debtor)**

To Whom It May Concern:

We are the secured party under certain registrations made against the Debtor under the *Registration of Deeds Act* ("RDA"). We are advised that you propose to establish certain credit facilities in favour of the Debtor and that you have requested this letter as a condition to the establishment of such credit facilities.

In consideration of the establishment of your financing arrangements with the Debtor, we confirm that we have no interest in the property charged by your Charge Mortgage as more particularly described in Schedule "A".

We will not assign or transfer our security to any person without giving you three business days prior written notice and obtaining from any assignee or transferee an agreement in the same form as this agreement.

This letter may be relied upon by you and your successors and assigns but not by any other party.

Very truly yours,

  
GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

By

Guy Brooks  
Title ASSISTANT SECRETARY

**SCHEDULE "A"**

Item, type or model of equipment	Number	Serial Number
Poulin Portable Screener	1	2SAAQQ19810285884
Poulin Portable Stack Conveyor	1	2SAAQQ19705139885
John Deere 450 LC Excavator	1	FF0450X090409
John Deere 330 LC Excavator	1	FF0330X060543
John Deere 450 H Crawler Dozer	1	T0450HX874682
John Deere 744 H 4WD Loader	1	DW744HX569129
John Deere 650 C Crawler Dozer	1	T0850CX873898
John Deere 230 LC Excavator	1	FF0230X600204



**Date:** August 9, 2000

**To:** GMAC of Canada Ltd

**Fax:** (800) 652-6166

**Attn:** Judy McDougall

**Phone:** (800) 651-6266 x6992

**From:** Jill Conley

**Fax:** (905) 633-3306

**Phone:** (905) 633-3325

**Pages (incl. this cover):** 3

---

Attached is a waiver letter for the equipment CIT Financial Ltd. will be financing to our mutual customer.

This letter has been sent because your organization shows up as a Secured Creditor against our mutual client. The collateral classification(s) that you have registered under, indicates that your organization could have a lien against the asset or assets that we are financing.

In order to perfect our security interest in the item(s) and ensure our entitlement to the asset(s) that we are financing, we are required to send out waiver letters to all Secured Creditors that may have an vested interest in the item(s) on the following Schedule A

Please sign the following waiver letter if your organization does not have an interest in the asset(s) that CIT Financial Ltd is financing and fax it back to 905-633-3306.

Thank you

  
Jill Conley  
Sales Coordinator



CIT Equipment Financing  
5045 South Service Road  
Burlington, Ontario  
L7R 3Y8

## WAIVER

**VIA FAX**

**DATE: August 9, 2000**

**TO: GMAC OF CANADA LTD.**

**RE: Hickman Equipment (1985) Ltd.**


CIT Financial Ltd. ("CIT") has or will be entering into, or taking assignment of, a lease agreement, a conditional sales contract, or a security agreement (the "Contract") with the above mentioned Obligor, to lease to, or finance for the Obligor, the equipment described in Schedule "A" hereto, together with all attachments, accessions, replacements and/or additions thereto (the "Equipment").

Under the terms of the Contract, CIT has or will obtain title to and/or has or will obtain a security interest in or lien on the Equipment and the proceeds thereof (collectively, the "Collateral").

A search of the public records indicates that you may have security in the Collateral.

Please indicate, by signing below, that you acknowledge that you have not assigned your security interest and that you do not have and will not in future claim any right, interest, charge or security interest in the Collateral which ranks in priority to the right, title, interest, hypothec, charge and security interest now or hereafter held by CIT in the Collateral. For greater certainty, you are acknowledging and agreeing that, as against you, CIT shall have a first priority, right, title, interest, charge and security interest in the Collateral.

Sincerely,

  
Jill Conley  
Sales Coordinator

For valuable consideration, and recognizing that CIT is relying on this acknowledgment in entering into the Contract referred to herein, we hereby acknowledge and agree that we do not have and will not claim any right, interest, hypothec, charge or security interest in the Collateral which ranks prior to the right, title, interest, charge and security interest now or hereafter held by CIT in the Collateral, and we hereby postpone and subordinate to CIT for all purposes all rights, title, interests, charges and security interests that we may have at any time now or hereafter have or acquire in the Collateral to all the rights, title, interests, hypothec, charges and security interests that CIT may now have or hereafter acquire in the Collateral.

Dated this 10 day of August 2000.

Secured Creditor: **GMAC OF CANADA LTD.**

Per:

## SCHEDULE "A"

### Equipment

### Serial #s

5 JOHN DEERE 200LC EXCAVATORS

FF0200X051249

FF0200X501479

FF0200X501455

FF0200X501390

FF0200X501453

1 JOHN DEERE 844H LOADER

DW644HX677435

1 JOHN DEERE TC82H LOADER

DWTC62H577315

1 JOHN DEERE 310SE BACKHOE LOADER

T0310SE890549

1 JOHN DEERE 544H LOADER

DW544HX577412

1 JOHN DEERE 310SE BACKHOE LOADER

T0310SE890935

5 330LC EXCAVATOR

FF0330X080747

FF0330X080950

FF0450X090542

FF0330X080883

FF0330X080882

FF0330X080881

1 JOHN DEERE 644H LOADER

DW644HX577290

Dated this 10 day of August 2000.

GMAC OF CANADA LTD.

Per. 





February 27, 2001

General Motors Acceptance Corporation of Canada, Limited  
Suite 310 455 Fenelon Boulevard  
Dorval, PQ  
H9S 5K1

Attention Heather

Re: ~~Pickman Equipment (1985) Limited~~

National Leasing Group Inc. is providing lease financing for the following equipment as outlined below:

See Attached Equipment Schedule #2108928

A Personal Property Registry search indicated your institution has a general security agreement registration.

Please acknowledge the priority security interest of National Leasing Group Inc. in the referenced equipment by signing a copy of this letter and returning it by fax (204) 954-2299 A.S.A.P.

Thank you for your prompt co-operation.

Yours truly,

Karen McKerscher,  
Administration Officer, Capital Finance

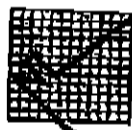
We confirm the priority security interest of National Leasing Group Inc. in the equipment listed above.

Per: Marcos Holm

Title: Commercial Lending Analyst

Date: March 6, 2001

FastCredit



**National  
Leasing  
Group**

D.B.A. National Equipment Leasing  
National Agri Leasing  
National Medical Leasing

# LEASE EQUIPMENT SCHEDULE

Attached to and forming part of the Lease Schedule No. 2108928, Dated FEBRUARY 20, 2001

between HICKMAN EQUIPMENT (1986) LIMITED

as Lessee,

and National Leasing Group Inc. as Lessor.

## QUANTITY

## DESCRIPTION (Include Make & Model and Serial Number)

1	NEW 2001 310SG BACKHOE LOADER C/W CAB WITH AIR (2 DOOR), AIR SUSP FABRIC SEAT, FRONT AXLE W/MFWD-POWERSH, 19.5LX24 & 340/18 FRY & R, EXTENDABLE BACKHOE, FIVE FUNCTION VALVE, TWO LEVER CONTROLS, LESS AUXILIARY PLUMBING, STD STAB W/REV FEET, 24" SEV. DUTY BH BUCKET, LDR W/RTD & 3 FUNC HYD, LESS LDR BUCKET W/PINS 1150 LB FRT COUNTERWEIGHT, TWO BATTERIES-300 WIN CAP, COUPLER, STANDARD BKT QUI, CHROME EXHAUST EXTENSION, TILT STRING WHL INSTALLAT, OPS STAT ROOF W/DELUXE LI, AM/FM RADIO ENGINE COOLANT HEATER, ELECTRIC ETHER STARTING A, RIDE CONTROL, FRT WINDSHIELD WASHER NO TIRE PREFERENCE SERIAL NUMBER#T0310SG8894504
1	NEW 2001 310SG BACKHOE LOADER C/W CAB WITH AIR (2DOOR), AIR SUSP FABRIC SEATS, FRONT AXLE W/MFWD-POWERSH, 19.5L X 24 & 340/18 FRT &R, EXTENDABLE BACKHOE, FIVE FUNCTION VALVE, TWO LEVER CONTROLS, LESS AUXILIARY PLUMBING STD STAB W/REV FEET, 24" HD BACKHOE BUCKET, LDR W/RTD & 3 FUNC HYD, 1.30 CU YD LNG LIP LDR BK 1150 LB FRT COUNTERWEIGHT, TWO BATTERIES-300 MIN CAP, CHROME EXHAUST EXTENSION, TILT SPRING WHL INSTALLAT, OPS STAT ROOF W/DELUXE LI, AM-FM RADIO, ENGINE COOLANT HEATER, ELECTRIC ETHER STARTING A, FRT WINDSHIELD WASHER, GOODYEAR TIRES ALL SERIAL NUMBER#T0310SG8895013
1	NEW 2001160LC EXCAVATOR C/W 700MM TRIPLE SEMI-G SHOES, BOOM 5.01M 1 PC, ARM 3.1M 10'2" ASSEMBLY CAB W/AIR 160LC, VANDAL PROTECTION CAB, ETHER STARTING AID SERIAL NUMBER#P00160XD41613

### FOR OFFICE USE ONLY

Date of Acceptance: FEBRUARY 20, 2001

THIS LEASE AGREEMENT SHALL NOT BECOME BINDING UPON NATIONAL UNTIL ACCEPTED IN WRITING AS EVIDENCED BY THE SIGNATURE OF A FULLY AUTHORIZED OFFICER OF NATIONAL LEASING GROUP INC. 02/20/01

Authorized Signature: \_\_\_\_\_

### HICKMAN EQUIPMENT (1986) LIMITED

FULL LEGAL NAME OF LESSEE

The undersigned affirms that he/she is duly authorized to execute this Lease Agreement.

Per: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Per: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

REGINA GILES MARRAS  
Title

V. P. OPERATIONS & SALES  
Title

Lease Equipment Schedule

Rev. 10/25/99

March 22, 2001

Page 43

March 22, 2001

VIA FACSIMILE

NO. \*

General Motors Acceptance Corporation of Canada, Limited  
Suite 310, 455 Penelon Boulevard  
Dorval, PQ  
H9S 5K1

Attention: Guy Brooks

Dear Sirs:

Re: **Hickman Equipment (1985) Limited**  
**Financing with CIBC Equipment Finance Limited**

We write in relation to the captioned financing.

We enclose herewith a no interest letter respecting a financing by Hickman Equipment (1985) Limited which we request that you please have executed and returned to the undersigned at your earliest convenience.

We thank you in advance for your cooperation and look forward to hearing from you.

Yours very truly,

**STEWART McKELVEY STIRLING SCALES**

Neil L. Jacobs

NLI/sea  
Encl

F:\DATA\DATA\2001\March\Hickman Equipment - letter sending no interest letter.wpd

CIBC Equipment Finance Ltd.  
P.O. Box 1665  
15<sup>th</sup> Floor, 1809 Barrington Street  
Halifax, Nova Scotia  
B3J 3A3

May 8, 2001

Re: **Hickman Equipment (1985) Limited**  
P.O. Box 820, Topsail Road West  
Mount Pearl, Newfoundland  
A1N 3C8  
(Debtor)

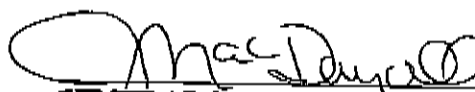
**To Whom It May Concern:**

We are the secured party under certain registrations made against the Debtor under the *Personal Property Security Act* ("PPSA"). We are advised that you propose to establish certain credit facilities in favour of the Debtor and that you have requested this letter as a condition to the establishment of such credit facilities.

In consideration of the establishment of your financing arrangements with the Debtor, we, our successors and assigns, confirm that we have no interest in the property charged by your Loan Agreement as more particularly described in Schedule "A" attached hereto.

This letter may be relied upon by you and your successors and assigns but not by any other party.

Very truly yours,



GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

By Judy Mac Dougall

Title Commercial Lending Analyst

P:\DATA\DATA\2001\March\Hickman Equipment - no interest lease.wpd

**SCHEDULE "A"**

121444	TRAMAC BREAKER MODEL NO. V55
551028-64	BLAW-KNOX PF-5510.1 PAVER
T0850CX888907	JOHN DEERE 850C
FF0200X501362	JOHN DEERE 200-LC
T0450HX889199	JOHN DEERE 450H
FF0200X501391	JOHN DEERE 200-LC
DWTC62H577315	JOHN DEERE TC62H
FF0330X080747	JOHN DEERE 330-LC
FF0200X501453	JOHN DEERE 200-LC
58314351	DYNAPAC CA251A
17DD0305	TIMBERJACK 14108W FORWARDER
572	TIMBERLINE SDL2 DELIMBER
01AB2122	TIMBERJACK 1270C HARVESTER



# CHARTER FINANCIAL

Charter Financial Company  
505 Consumers Road, Suite 402  
Toronto, Ontario M2J 4V8

TEL 416.498.6464  
FAX 416.498.9240

Date: Sept. 14, 2001

General Motors Acceptance Corporation Of Canada Limited  
455 Fenton Blvd., Suite 310  
Dorval, PQ. H9S5K1

Attention: Guy Brooks  
Dear: Mr. Brooks

Re: Hickman Equipment (1985) Ltd., (the "Debtor")  
1269 Topsail Road  
Mount Pearl, NF.  
A1N3C8

Charter Financial Company ("Charter") is contemplating entering into or has entered into a transaction with the Debtor whereby Charter is providing or has provided financing to the Debtor in connection with

1 - 2001 John Deere 270LC Excavator, Serial # R00270X070947

1 - 2001 John Deere 330LC Excavator, Serial # R00330X081260

1 - 2001 John Deere 330LC Excavator, Serial # R00330X081279 (together with all parts, accessories, replacements, additions, accessions and all proceeds therefrom are collectively referred to as the ("Equipment"). We understand that you may have a security interest in the Debtors assets. As a condition of the contemplated transaction, Charter requires that you sign and return the enclosed duplicate copy of this letter to the undersigned at your earliest convenience to state your agreement that:

1. You do not object to said transaction.
2. Charter's interest in the Equipment has priority to any interest you may now or in the future have therein and that you will not assert or claim an interest in priority to Charter's interest in the Equipment.
3. Any security interest you have in the Equipment is subordinated to Charter's security interest therein.
4. You will execute any further documents Charter may reasonably require to register and/or better evidence such subordination, provided that the costs of such documentation and/or registration shall be at Charter's expense; and
5. This confirmation and agreement may be relied upon by Charter, its principals, successors and assigns

Thank you for your assistance

Yours truly,  
John M. O'Reilly, on behalf of  
Charter Financial Company

By: John M. O'Reilly

(Authorized signing officer)

Name/Title: \_\_\_\_\_

Agreed this \_\_\_\_\_ day of \_\_\_\_\_ 2001

General Motors Acceptance Corporation Of Canada Limited

By: [Signature]

(Authorized Signing Officer)

Name/Title: \_\_\_\_\_

ASSISTANT SECRETARY



CHARTER FINANCIAL

Tel-709-722-1722  
Fax-709-722-1771  
Toll Free 1-800-563-0678

21 Mews Place  
Corporate Office Centre  
P.O. Box 13968 Stn 'A'  
St. John's, NL A1B4G8

FAX

No. of Pages 2 (including cover sheet) DATE: SEPT/14/2001

FROM Guy Brooks

Company: GMAC

Fax # 800-652-6166

TO ~~FROM~~ JOHN O'Reilly

MESSAGE: MR. Brooks

AS DISCUSSED, WOULD YOU PLEASE SIGN + DATE  
THE WAIVER LETTER + FAX BACK TO ME  
AS SOON AS POSSIBLE.

THANK YOU FOR YOUR COOPERATION

John O'Reilly





SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person	General Motors Acceptance Corporation of Canada, Limited ("GMAC")
Date of Document	March 2003
Summary of Order/Relief Sought or Statement of Purpose in Filing	Security Agreement (Leasing) Application Affidavit of Alex G. Traverse
Court Sub-File Number	7:34

2002 01 T0352

## IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

IN THE MATTER OF a Court ordered Receivership of Hickman Equipment (1985) Limited ("Hickman Equipment") pursuant to Rule 25 of the **Rules of the Supreme Court, 1986** under the **Judicature Act**, R.S.N.L. 1990, c. J-4, as amended

AND IN THE MATTER OF the **Bankruptcy and Insolvency Act**, Chapter B-3 of the Revised Statutes of Canada, 1985, as amended (the "BIA")

AFFIDAVIT

I, Alex G. Traverse, of the City of St. John's, in the Province of Newfoundland and Labrador, do hereby say as follows:

1. That I am Secretary-Treasurer of Terra Nova Motors Ltd. ("TNM") and as such have personal knowledge of the facts herein deposed to, except where otherwise stated.



- 2 -

2. That TNM is an authorized dealer for General Motors of Canada Limited in St. John's, in the Province of Newfoundland and Labrador, and as such has dealings with General Motors Acceptance Corporation of Canada, Limited ("GMAC").
3. GMAC provides financing to TNM on a continuous basis and as security for the repayment of such financing TNM has granted certain security agreements creating a security interest in some of its assets to GMAC, including a demand debenture dated February 22<sup>nd</sup> 1994 (the "Debenture") attached hereto as Exhibit 1.
4. Prior to February 14<sup>th</sup> 2000 TNM was requested by GMAC to execute and deliver additional security agreements entitled "Security Agreement (Sales & Leasing)" and "Security Agreement (Leasing)" ("ISA"), copies of which are attached as Exhibit 2.
5. I requested our solicitor to review the ISA and to advise me what assets of TNM were being secured by the ISA.
6. On February 16<sup>th</sup> 2000 my solicitor, Mr. Martin Lockyer, advised that the ISA would grant to GMAC a security interest in all of the vehicles held by TNM including both vehicles financed by GMAC and vehicles not financed by GMAC (see correspondence attached hereto as Exhibit 3) and accordingly I requested GMAC to amend the ISA to restrict the security granted to GMAC to only those vehicles financed by GMAC (see correspondence attached hereto as Exhibit 4).
7. On August 28<sup>th</sup> 2000, TNM executed and delivered to GMAC an ISA (see Exhibit 5) which restricted the security interest granted to only vehicles financed by GMAC.

- 3 -

**SWORN TO** before me at the City  
of St. John's aforesaid, this *13th*  
day of March, 2003:

*Alex G. Traverse*  
**ALEX G. TRAVERSE**

*Douglas H. Beatty*  
*Douglas H. Beatty*

(O:\tkendell\TK - 1041 - GMAC - Group Holdings\Pleadings\Afdvt - Alex Traverse - Mar 10-03.wpd)

**EXHIBIT****1****DEMAND DEBENTURE****Terra Nova Motors Limited**

a Body corporate, incorporated under the Laws of  
the Province of Newfoundland

Date: , 1993

1. For value received Terra Nova Motors Limited ("the Dealer") covenants with **GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED** ("GMAC") to pay to GMAC at its office in the City of St. John's in the Province of Newfoundland, or at any other such place as GMAC may from time to time designate in writing, **ON DEMAND**, either:
  - (a) The amount of \$ 11,000,000.00; or
  - (b) Such other sum not exceeding \$ 11,000,000.00 as may be equal to the total of all Obligations Secured by this debenture and owing from the Dealer to GMAC; whichever shall be the lesser (hereinafter called "the Principal Sum").
2. **OBLIGATIONS SECURED** - The Obligations Secured shall include all money and liabilities whether direct or contingent, now or hereafter owing or incurred from or by the Dealer to GMAC, whether as principal or surety, whether alone or jointly with another person and in whatever name, style, firm and whether arising from dealings between GMAC and the Dealer or from other dealings or proceedings by which GMAC may become a creditor of the Dealer and including, without limitation, advances upon overdrawn accounts or upon bills of exchange, promissory notes, or other obligations discounted for the

exchange, promissory notes, or other obligations discounted for the Dealer or otherwise, all bills of exchange, promissory notes and other obligations negotiable or otherwise representing money and liabilities or any part thereof now or hereafter owing or incurred from or by the Dealer and all interest, damages, costs, charges and expenses which may become due or payable to GMAC or may be paid or incurred by GMAC upon or in respect to the said money and liabilities, or any part thereof, comprising the security of this Debenture. Specifically, the Obligations Secured include all principal and interest owing by the Dealer to GMAC pursuant to the covenants and agreements under any verbal or written wholesale financing accommodations or security agreements from time to time in effect between the Dealer and GMAC, and any other debts, monies or liabilities becoming owing by the Dealer. This Debenture shall stand as a continuing security for the payment of the Obligations Secured and all interest payable under this Debenture notwithstanding that such interest will result in the amount being secured hereunder exceeding the Principal Sum defined in Paragraph 1 hereof. The taking of this security shall not operate as a merger of the remedies of GMAC for the payment of the Obligations Secured or interest or of other obligations or securities now or at any time hereafter held for the same or any part thereof but that notwithstanding these presents and anything herein contained, the said remedies shall remain intact and be capable of enforcement against the Dealer and all other persons liable in respect to the Obligations Secured and other obligations or securities in the same manner and to the same extent as if these presents had not been executed.

3. INTEREST - Interest shall be payable under this Debenture upon the Principal Sum from the date of a demand under this Debenture.

Interest shall be calculated monthly on the average monthly balance in arrears at the rate or rates agreed to between the parties hereto, from time to time, in respect of the Obligations Secured. Interest shall apply both before and after termination of this Debenture and both before and after any judgment is entered with respect to the balance outstanding.

4. **SECURITY** - As security for the payment of the Principal Sum, Interest, and all other monies from time to time owing under this Debenture:

(a) The Dealer hereby assigns, conveys, grants, mortgages, charges and transfers as and by way of a fixed and specific Mortgage and charge to and in favour of GMAC;

(i) all its Motor Vehicles financed by GMAC and stored upon any lands owned or leased by the Dealer and elsewhere or on Lease or rental;

(ii) all accessions to Motor Vehicles financed by GMAC;

(iii) the Proceeds, in whatever form of any sale or other disposition of Motor Vehicles financed by GMAC;

(iv) all amounts now or hereafter payable to the Dealer by a manufacturer, distributor or seller of any Motor Vehicles by way of rebate or refund of all or any portion of the purchase price thereof to the extent of outstanding GMAC financing;

(v) all amounts payable in respect of any Motor Vehicle financed by GMAC to the Dealer by a Government or other taxing authority including, but not limited to, GST rebate and credits;

(vi) the proceeds of any insurance now or hereafter payable in respect to any Motor Vehicles financed by GMAC;

(vii) all its Motor Vehicles and all accessions to Motor Vehicles

which may be added to or substituted for the Mortgaged Property hereinbefore described from time to time or which may be hereinafter purchased by the Dealer.

(b) The Dealer hereby assigns, conveys, grants, mortgages, charges and transfers as and by way of a floating charge in favour of GMAC;

(i) all its Motor Vehicles presently held or hereinafter acquired by the Dealer financed by GMAC;

(ii) all accessions to Motor Vehicles financed by GMAC;

(iii) the Proceeds in whatever form, of any sale or other disposition of Motor Vehicles financed by GMAC;

(iv) all amounts now or hereafter payable to the Dealer by a manufacturer, distributor or seller of any Motor Vehicle by way of rebate or refund of all or any portion of the purchase price thereof to the extent of outstanding GMAC financing;

(v) the proceeds of any insurance now or hereafter payable in respect of any Motor Vehicle financed by GMAC;

(vi) all amounts payable in respect to Motor Vehicles financed by GMAC to the Dealer by way of a Government or other taxing authority including, but not limited to, GST rebates and credits.

(c) In this Debenture "Motor Vehicles" means new vehicles available for sale, vehicles driven by Dealer employees or used as courtesy cars, demonstrators, leased vehicles, vehicles purchased by the Dealer at General Motors auctions, trade-in vehicles, dealer trades and vehicles which have been delivered under the Deferred Payment Privilege Plan or similar arrangement or mechanism whereby the Dealer has delivered possession of a

vehicle or vehicles but has not yet received payment.

- (d) "Proceeds" means all accounts receivable, debts, claims, choses in action, monies due, personal property in any form or fixtures or real property derived directly or indirectly from dealing with the Mortgaged Property or proceeds therefrom that indemnifies or compensates for collateral lost, destroyed or damaged, and includes, proceeds of proceeds.

All property subject to the said mortgages and charges or to the floating charges shall be collectively referred to herein as "the Mortgaged Property".

5. GENERAL CONDITIONS - The Dealer covenants with GMAC:

- (a) To pay the Principal Sum and interest due as provided herein when demanded.
- (b) That it has good and marketable title to the Mortgaged Property free and clear of encumbrances except as herein stated.
- (c) That it has the right to create upon the Mortgaged Property the floating charges contained in this Debenture.
- (d) That it will at all times, do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered all and every such further acts, deeds, mortgages, transfer and assurance in law as GMAC shall reasonably require for the better assuring, charging, assigning and confirming unto GMAC all and singular the Mortgaged Property and for the better



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accomplishing and effectuating of the intentions of this Debenture.

- (e) That it will not permit waste to be committed or suffered on the Mortgaged Property and will maintain the same in good order and repair.
- (f) That GMAC will not be obliged to pay the amount of any encumbrance, lien or charge now or hereafter existing or to arise or to be claimed upon the Mortgaged Property including taxes, rates, duties, assessments, rents, fees and appropriations on the Mortgaged Property or any of them and may pay all costs, charges and expenses which may be incurred in taking, recovering and keeping possession of the Mortgaged Property and insurance premiums for fire and other risks or hazards and that any monies paid hereunder by GMAC shall be secured by this Debenture in addition to the Principal Sum and Interest and shall be a charge upon the Mortgaged Property and shall bear interest at the rate provided herein and shall be payable by the Dealer to GMAC on demand.
- (g) On default in the observance of any of the covenants and conditions herein contained, to deliver up quiet possession of the Mortgaged Property, free and clear from all encumbrances, except as herein noted.
- (h) That it will not create or suffer or permit to be created or levied upon the Mortgaged Property or any part thereof any further charge (including any security under Section 427 of The Bank Act), lien, encumbrance, or any execution, sequestration or other process of any court or any distress or analogous process,

and that it will not sell, assign, pledge, charge, mortgage or otherwise dispose of or deal with the mortgaged property or any part thereof, other than as hereinbefore expressly permitted.

- (i) The sale of any motor vehicle by the Dealer to any person associated or affiliated with the Dealer or not dealing with the Dealer on an arm's length basis shall be conclusively deemed to be a sale not in the ordinary course of business of the Dealer and the mortgages and charges of this Debenture shall continue to apply to any such vehicle in priority to the interest of any such person, unless and until the amount financed by GMAC in respect of each such vehicle has been paid to GMAC or jointly to GMAC and the Dealer.
- (j) That it shall diligently maintain the Mortgaged Property and shall carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Mortgaged Property and any earnings, incomes, rents, issues and profits thereof.
- (k) That during the continuance of this Debenture the Dealer will pay all taxes, rates, duties and assessments whatsoever, whether municipal, Parliamentary, sales, governmental or otherwise, including the Federal and Provincial Sales Tax, Goods and Services Tax, Worker's Compensation Commission Assessments, now charged or hereafter to be charged upon the Mortgaged Property and on demand produce to GMAC the receipt for same and if the Dealer shall make default in such payment, GMAC may at its discretion pay such taxes, rates, duties and assessments, aforesaid, and the expense of so doing shall be repaid by the Dealer on demand and until so repaid shall be a charge on the Mortgaged Property.

That it will duly observe and comply with all valid requirements of any governmental authority relative to any of the Mortgaged Property and all covenants, terms and conditions upon or under which the Mortgaged Property is held.

- (l) That it shall furnish to GMAC such information with respect to the Mortgaged Property as GMAC may from time to time reasonably require; and give written notice to GMAC of all litigation before any court, administrative board or other tribunal materially affecting the Dealer or its property and to give notice to GMAC of all matters in which any existing licenses or permits of the Dealer may be cancelled.
- (m) That it will comply with the terms of any wholesale financing or security agreement from time to time in effect between GMAC and the Dealer.
- (n) That it will pay all rents and observe and perform all covenants and conditions in any lease under which the Dealer claims an interest in the assets, or any of them, and on the part of the lessee to be paid, observed, and performed in accordance with its terms and the Dealer agrees to take whatever steps are necessary in order to put GMAC in possession of the leased assets in the event of a default under this Debenture.
- (o) That it will maintain adequate fire insurance coverage over the Mortgaged Property and notify the insurance carrier of GMAC's interest in the Mortgaged Property granted under this Debenture.
- (p) That any and all proceeds of any sale or other disposition of

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the Mortgaged Property by the Dealer shall to the extent of the Dealer's obligation to GMAC with respect to such Mortgaged Property be received and held by the Dealer in trust for GMAC and shall be fully, faithfully and promptly accounted for or remitted by the Dealer to GMAC to the extent of the Dealer's obligations to GMAC with respect to such Mortgaged Property;

6. **EVENTS OF DEFAULT** - Notwithstanding any other provision of this Debenture, the Principal Sum, interest and all other monies hereby secured shall immediately accrue and become due and payable and the security hereby constituted shall immediately become enforceable and the floating charges herein contained shall become fixed and crystallized in each or any of the following events:
- (a) If the Dealer makes default in payment of the Principal Sum of this Debenture or of any interest thereon, or of any Obligation Secured which has accrued due.
  - (b) If the Dealer makes default in any covenant or condition hereunder.
  - (c) If the Dealer ceases or threatens to cease to carry on its business, commits an act of bankruptcy, become insolvent, makes an unauthorized assignment or bulk sale of its assets, or proposes a compromise or arrangement to its creditors or if any order is made or a resolution passes for the winding up of the Dealer.
  - (d) If any proceeding is taken with respect to a compromise or arrangement or to have the Dealer declared bankrupt or wound up or to have a receiver appointed of any part of the

Mortgaged Property or, if any encumbrancer takes possession of any part thereof.

(e) If any execution, sequestration or any other process of any court becomes enforceable against the Dealer or if any distresses or analogous process is levied upon the property of the Dealer or any part thereof.

(f) If the Dealer shall or propose to sell, assign, pledge, charge, mortgage or otherwise dispose of or deal with the Mortgaged Property or assets or any part thereof otherwise than as hereinbefore expressly permitted.

(g) If GMAC, in good faith, believes that the ability of the Dealer to pay any monies hereby secured or to perform any covenant or condition hereof is impaired or that the Mortgaged Property is in danger of being lost, or damaged.

(h) If the Dealer makes default in payment of any indebtedness or liability of the Dealer to GMAC when due whether the same is secured hereby or not.

(i) If the Dealer fails to duly and punctually observe and perform any material covenant or agreement between it and GMAC required by the Dealer to be observed and performed including, without limitation, the Dealer's covenants and agreements under any wholesale financing or security agreement from time to time in effect between it and GMAC;

7. **WAIVER OF DEFAULT** - GMAC may by notice to the Dealer waive any default of the Dealer on such terms and conditions as GMAC

may determine, but no such waiver shall be taken to affect any subsequent default or the rights resulting therefrom.

8. **REMEDIES** - Whenever the security hereby constituted becomes enforceable and so long as it remains enforceable:

- (a) GMAC may immediately take possession of the Mortgaged Property including any leased property in which the Dealer has an interest and for that purpose the Dealer hereby assigns the rights (but not the obligations) of any such lease interests to GMAC as security for the Obligations Secured hereunder. GMAC may sell and dispose of the Mortgaged Property either as a whole or in separate parcels at public auction, by public tender or by private sale, either for cash or upon credit, at such times and upon such terms and conditions as GMAC may determine; and GMAC may execute and deliver to any purchaser of the Mortgaged Property or any part thereof good and sufficient deeds and documents for documents for the same GMAC being irrevocably constituted the attorney of the Dealer for the purpose of making such sale and executing such deeds and documents.
- (b) (i) GMAC may bid on any or all of the assets and buy at any sale or tender of the same.
- (ii) Any person purchasing the Mortgaged Property or any part thereof shall not be bound to inquire into the legality or regularity of such sale and no such sale shall be invalidated by lack of default, notice or any other irregularity or impropriety.

- (iii) All costs, charges and expenses incurred in collecting the Obligations Secured hereunder, in repossessing the Mortgaged Property, including costs of any receivership or any other costs incurred hereunder, shall be paid out of any sale proceeds prior to any amount being applied against the Principal Sum or interest payable hereunder.
- (c) GMAC may by instrument in writing appoint any person to be a receiver (which term shall include a receiver and manager) of the Mortgaged Property or of any part thereof and may remove any receiver so appointed and appoint another in his stead; and any such receiver so appointed shall have power (i) to take possession of the Mortgaged Property or any part thereof; (ii) to carry on the business of the Dealer; (iii) to borrow money required for the maintenance, preservation or protection of the Mortgaged Property or any part thereof or for the carrying on of the business of the Dealer; and (iv) to sell the whole or any part of the Mortgaged Property on such terms and conditions and in such manner as the receiver may determine provided that any such receiver shall be deemed the agent of the Dealer and GMAC shall not be in any way responsible for any misconduct or negligence of any such receiver; and
- (d) GMAC may exercise any of the other rights of which GMAC is entitled as holder of this Debenture including the right to take proceedings in any court of competent jurisdiction for the appointment of a receiver and manager for the sale of the Mortgaged Property or any part thereof or for foreclosure, and the right to take any other action, suit, remedy or proceeding authorized or permitted by law or by equity in order to enforce the security constituted by this Debenture.

9. **EXPENSES** - The Dealer shall pay to GMAC upon demand the amount of all expenses incurred in recovering any monies owing hereunder or in enforcing the security hereby constituted including costs in a "solicitor and his own" client basis, with interest thereon from the date of the incurring of such expenses at the rate at which interest is payable under this Debenture.
10. **DISCHARGE** - If the Dealer pays to GMAC the monies secured by this Debenture and otherwise observes and performs the terms and conditions hereof, then this Debenture and the rights hereby granted shall cease and be void and thereupon GMAC shall at the request and at the expense of the Dealer cancel and discharge the mortgage and charge of this Debenture and execute and deliver to the Dealer such deeds and other instruments as shall be requisite therefor.
11. **NOTICE** - Any notice or demand required or permitted to be made or given hereunder by GMAC to the Dealer or vice versa shall be made or given by personal delivery or by mailing the same by prepaid registered mail to the Dealer or GMAC at:

GMAC at:

General Motors Acceptance Corporation  
of Canada, Limited  
33 Pippy Place  
St. John's, NF

Attention: Manager

and to:

Dealer at:

P.O. Box 607  
496-498 Topsail Road  
Mount Pearl



NewfoundlandAIN 2X4Attention: President

Any such notice mailed shall be conclusively deemed to have been received when sent to the above addresses (or to such other addresses which either GMAC or the Dealer may advise the other of in writing) within two (2) business days following the date of such mailing.

12. **NEGOTIATION** - This Debenture is to be treated as negotiable. The principal, interest and other monies hereby secured will be paid and shall be assignable free from any right of set-off or counterclaim or equities between the Dealer and GMAC.
13. **ADDITIONAL SECURITY** - This security is in addition to and not in substitution for any other security now or hereafter held by GMAC.
14. **LAW GOVERNING** - This Debenture shall be governed in all aspects by the Laws of the Province of Newfoundland.
15. **PRESENTMENT** - The Dealer waives any requirement of a presentment of the Debenture as a condition precedent of GMAC enforcing the Debenture or the obligations of the Dealer contained herein.
16. **SUCCESSORS AND ASSIGNS** - This Debenture shall enure to the benefit of GMAC, its successors and assigns, and shall be binding upon the Dealer, its successors and assigns.

The Dealer acknowledges that GMAC has advised it to obtain independent legal advice before signing this Debenture and warrants that either such

legal independent legal advice has been obtained or is waived.

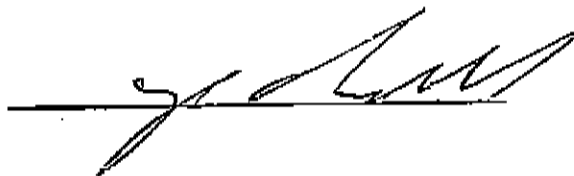
IN WITNESS WHEREOF the Dealer has caused its corporate seal to be hereunto affixed in accordance with the rules and regulations in that on behalf the 22<sup>nd</sup> day of February, 1998

THE CORPORATE SEAL OF

was hereunto affixed in the presence of:-

Terra Nova Motors Limited

Per:



**EXHIBIT**2**SECURITY AGREEMENT (SALES AND LEASING)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for sale or lease, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles held for sale or lease by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for sale or lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall keep the Vehicles brand new and we shall not use them illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may sell and lease the Vehicles in the ordinary course of business and all such Vehicles including those leased to the public shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;

- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:
  - (i) to take possession of the Vehicles or any part thereof;
  - (ii) to carry on our business or any part thereof;

- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or is prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

ACCEPTED

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

Dealer Name

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

witness

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

**EXHIBIT****2****SECURITY AGREEMENT (LEASING)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for lease or which now or may be leased to the public, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles leased by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall not use the Vehicles illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may lease the Vehicles in the ordinary course of business and all such Vehicles shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;
- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may



remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:

- (i) to take possession of the Vehicles or any part thereof;
- (ii) to carry on our business or any part thereof;
- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or in prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

**ACCEPTED:**

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

Witness,

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

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FEB-15-00 10:14 FROM:

ID:

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**PATTERSON PALMER HUNT MURPHY**

www.pphm.com • 1 888 699 7746

Martin J. Lockyer

**EXHIBIT****3**Direct line: (709) 570-5525  
Direct fax line: (709) 570-5755  
e-mail: mlockyer@pphm.com

16 February 2000

Alex Traverse,  
Terra Nova Motors Limited,  
P.O. Box 13158  
Topsail Road  
St John's, NF A1B 4A4

Dear Alex:

**Re: Security Agreement with GMAC**

I have reviewed the Security Agreement (Sales and Leasing) and the Security Agreement (Leasing) that you sent by fax on Monday morning. You have asked me to review these documents to give you our opinion as to what collateral is secured by the Agreements.

The issue, as I understand it, is that you wish to restrict the security of GMAC to only those vehicles actually financed by GMAC and not have it extend to all vehicles, some of which have not been financed by GMAC.

In our opinion, it is clear from the broad definition of vehicles, that GMAC's security would extend to all new and used vehicles (including chassis) which you hold for sale or lease which are now owned or hereafter acquired by you and all replacements and substitutions therefor. There is no limiting language in the definition of vehicles to suggest that the security extends only to those vehicles actually financed by GMAC.

We also note that the Security Agreement (Sales and Leasing) both by its name and, more importantly, by the language used in the Agreement extends to all vehicles held by you for the purpose of either sale or lease and includes the leases relating thereto. The Security Agreement (Leasing) is limited to those vehicles held by you for the purpose of lease but also includes all leases relating thereto. Unless there is some reason that is not readily apparent, entering into the Security Agreement (Sales and Leasing) would render entering into the Security Agreement (Leasing) redundant.

Scotiabank Centre, 235 Water Street, PO Box 610, St. John's, Newfoundland, A1C 5L3  
Tel: (709) 726-6124 Fax: (709) 722-0483

02/13/00 10:11 FAX 011 533 0841 GMAC CREDIT COMMERCIAL

008/023

ID:

PAGE 3/3

FEB-16-00 10:15 FROM:

Page 2

16 February 2000

We trust this is satisfactory. If you require anything further please let us know.

Yours truly,

Patterson Palmer Hunt Murphy



MJLockyer

4

Telephone: 364-4130  
FAX: (709) 364-7705

**GM****GMC**

# TERRA NOVA MOTORS LTD.

496 Topsail Rd.  
P.O. Box 13158

ST. JOHN'S NFLD.  
ST. JOHN'S NFLD. A1B 4A4

February 16, 2000

Mr. Bill Primeau  
GENERAL MOTORS ACCEPTANCE CORPORATION  
OF CANADA LIMITED  
P.O. Box 8030, Stn. A.  
Halifax, NS  
B3K 5L8

Dear Bill:

Re: Security Agreement ( Sales and Leasing)  
Terra Nova Motors Limited  
Security Agreement (Leasing)  
Centsible Limited

Further to our telephone conversation of today's date I am writing to address our concerns with the security provided under the subject agreements. We request that the wording of the Security Agreements be changed to reflect the security provided in our Demand Debenture issued to GMAC in 1994.

I am enclosing the following documents for your reference.

- 1) A legal opinion from our counsel, Mr. Martin Lockyer, regarding the Security Agreements.
- 2) Copy of our Demand Debenture dated February 22, 1994.

Bill, thanks again for your assistance with this matter.

Yours very truly,  
TERRA NOVA MOTORS LIMITED

Alex G. Traverse  
Secretary-Treasurer

02/13/03 15:44 FAX 514 633 6924

GMAC CREDIT COMMERCIAL

002/023

**EXHIBIT****5****SECURITY AGREEMENT (SALES AND LEASING)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which are financed by GMAC and which we will hold for sale or lease, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us which are financed by GMAC (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

In consideration of GMAC furnishing financing accommodation to us upon the security of Vehicles and proceeds thereof, we hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for sale or lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall keep the Vehicles brand new and we shall not use them illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

02/13/03 15:45 FAX 514 633 6924

GMAC CREDIT COMMERCIAL

003/023

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may sell and lease the Vehicles in the ordinary course of business and all such Vehicles including those leased to the public shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;

- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:
  - (i) to take possession of the Vehicles or any part thereof;
  - (ii) to carry on our business or any part thereof;
  - (iii) to borrow money required for the maintenance, preservation

02/13/03 10:40 FAX 514 633 6924

GMAC CREDIT COMMERCIAL

005/023

or protection of the Vehicles or any part thereof or for the carrying on of our business;

- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or is prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this 28 day of AUGUST, 2000.

ACCEPTED

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

TERRA NOVA MOTORS LIMITED

BY

TITLE

  
~~ASSISTANT SECRETARY~~

BY

TITLE

  
PRESIDENT



SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person	General Motors Acceptance Corporation of Canada, Limited ("GMAC")
Date of Document	<u>14<sup>th</sup></u> March 2003
Summary of Order/Relief Sought or Statement of Purpose in Filing	Security Agreement (Leasing) Application Affidavit of Hubert Hunt
Court Sub-File Number	7:34

2002 01 T0352

## IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

**IN THE MATTER OF** a Court ordered Receivership of Hickman Equipment (1985) Limited ("Hickman Equipment") pursuant to Rule 25 of the *Rules of the Supreme Court, 1986* under the *Judicature Act*, R.S.N.L. 1990, c. J-4, as amended

**AND IN THE MATTER OF** the *Bankruptcy and Insolvency Act*, Chapter B-3 of the Revised Statutes of Canada, 1985, as amended (the "BIA")

**AFFIDAVIT**

I, Hubert Hunt, of the City of St. John's, in the Province of Newfoundland and Labrador, do hereby say as follows:

1. That I was Executive Vice-President of Hickman Equipment (1985) Ltd. ("HEL") and as such have personal knowledge of the facts herein deposed to, except where otherwise stated.

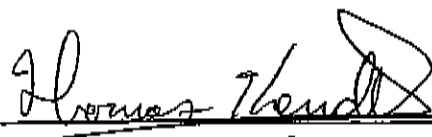
H

- 2 -

2. That HEL carried on the business of leasing and selling equipment including, but not limited to, excavators, loaders, back hoes, pavers, trucks, graders, air drills and dozers.
3. That all of the equipment inventory of HEL was available for lease.

**SWORN TO** before me at the City  
of St. John's aforesaid, this 14<sup>th</sup>  
day of March, 2003:

  
**HUBERT HUNT**

  
(a Barrister for s/pd)

(O:\tkendell\TK - 1041 - GMAC - Group Holdings\Pleadings\Afdvt - Hubert Hunt - Mar 12-03.wpd)

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person	General Motors Acceptance Corporation of Canada, Limited ("GMAC")
Date of Document	<u>14<sup>th</sup></u> March 2003
Summary of Order/Relief Sought or Statement of Purpose in Filing	Security Agreement (Leasing) Application Affidavit of Thomas R. Kendell, Q.C.
Court Sub-File Number	7:34

2002 01 T0352

## IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

**IN THE MATTER OF** a Court ordered Receivership of Hickman Equipment (1985) Limited ("Hickman Equipment") pursuant to Rule 25 of the **Rules of the Supreme Court, 1986** under the **Judicature Act**, R.S.N.L. 1990, c. J-4, as amended

**AND IN THE MATTER OF** the **Bankruptcy and Insolvency Act**, Chapter B-3 of the Revised Statutes of Canada, 1985, as amended (the "BIA")

**AFFIDAVIT**

I, Thomas R. Kendell, Q.C., of the City of St. John's, in the Province of Newfoundland and Labrador, do hereby say as follows:

1. That on March 20<sup>th</sup> 2002 I ordered a search of the PPSA Registry for Newfoundland and Labrador and attached hereto is a portion of the search report.

- 2 -

**SWORN TO** before me at the City  
of St. John's aforesaid, this *14th*  
day of March, 2003:



**JUDY M. STRUGNELL**  
A Commissioner for Oaths in and for  
the Province of Newfoundland. My  
commission expires December 31, 2005.

  
**THOMAS R. KENDALL, Q.C.**

(O:\tkendell\TK - 1041 - GMAC - Group Holdings\Pleadings\Afdvt - T Kendell - Mar 14-03.wpd)

2002-03-20  
11:03

Atlantic PPRS  
Search Results Report

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Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 922716  
Registration Date/Time : 2001-04-27 / 12:35  
Expiry Date : 2006-04-27  
Your File Number : NF6697-4

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	922716	2001-04-27	12:35	2006-04-27	NF6697-4
Amendment	1652456	2002-03-13	17:24	2006-04-27	NF6697-4
Amendment	1654463	2002-03-14	15:59	2006-04-27	NF6697-4
Amendment	1655890	2002-03-15	12:12	2006-04-27	NF6697-4

Debtors	ADDED	DELETED
Debtor Type : Enterprise HICKMAN LEASING LIMITED / PO BOX 8340 STN A ST. JOHN'S NF Canada A1B 3N7	922716	
Debtor Type : Enterprise Hickman Equipment (1985) Limited / PO BOX 820 Mount Pearl NF Canada A1N 3C8	1652456	
Debtor Type : Enterprise R & K Construction Limited / PO BOX 59 Seldom, Fogo Island NF Canada AOG 3Z0	1654463	
Debtor Type : Enterprise Donovan Homes Limited / 980 Topsail Road Mount Pearl NF Canada A1N 3K2	1654463	
Debtor Type : Enterprise Clarke's Trucking and Excavating Limited / PO BOX 54 Paradise, Conception Bay NF Canada AOA 2E0	1654463	
Debtor Type : Enterprise J-1 Contracting Ltd. / PO BOX 429	1654463	

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page 8

Clareville NF Canada AOE 1J0

Debtor Type : Enterprise  
D & T Mechanical Ltd.

1654463

PO BOX 413  
Springdale NF Canada A0J 1T0

Secured Parties

ADDED	DELETED
922716	

CIBC EQUIPMENT FINANCE LIMITED

P.O. BOX 1665  
Floor 15TH 1809 BARRINGTON Street  
HALIFAX NS Canada B3J 3A3

General Description Collateral

ADDED	DELETED
922716	

ALL PRESENT GOODS NOW OWNED OR ACQUIRED OR FINANCED BY THE SECURED PARTY AND LEASED OR OTHERWISE MADE AVAILABLE TO THE DEBTOR, AS DESCRIBED HEREIN AND CONTAINED IN CONDITIONAL SALES CONTRACTS BETWEEN THE DEBTOR AND SECURED PARTY, TOGETHER WITH ALL ATTACHMENTS, EXCHANGES, REPLACEMENT PARTS, REPAIRS AND ADDITIONS THERETO, AND ALL PRESENT AND FUTURE ACCOUNTS, INTANGIBLES, INSTRUMENTS, CHATTEL PAPER, DOCUMENTS OF TITLE, SECURITIES AND MONEY, AND ALL PROCEEDS OF THE FOREGOING IN ANY FORM, INCLUDING GOODS, DOCUMENTS OF TITLE, CHATTEL PAPER, SECURITIES, INSTRUMENTS, MONEY AND INTANGIBLES, AND ALL PROCEEDS THEREOF.

1654463

1. D & T Mechanical Ltd. is only an Enterprise Debtor for a TimberJack 1270C Harvester, Serial No. 01AB2122
2. J-1 Contracting Ltd. is only an Enterprise Debtor respecting (i) a Dynapac CA251A, Serial No. 58314351, and (ii) a Tremac Breaker, Model No. V55, Serial No. 121444
3. Donovan Homes Limited is only an Enterprise Debtor respecting a John Deere 200 - LC, Serial No. FFO200X501453
4. Clarke's Trucking and Excavating Limited is only an Enterprise Debtor respecting a John Deere TC62H, Serial No. DUTC62H577315
5. R & K Construction Limited is only an Enterprise Debtor respecting a John Deere 200 - LC Serial No. FFO200X501391.

Serial Numbered Collateral

ADDED	DELETED
922716	

Collateral Type

Serial Number	Description
Motor Vehicle	TIMBERJACK 1270C HARVESTER
01AB2122	
Motor Vehicle	TIMBERJACK 1410SU FORWARDER
17DD0305	
Motor Vehicle	DYNAPAC CA251A
58314351	

Motor Vehicle	TIMBERJACK 1270C HARVESTER	922716
01AB2122		
Motor Vehicle	TIMBERJACK 1410SU FORWARDER	922716
17DD0305		
Motor Vehicle	DYNAPAC CA251A	922716
58314351		

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11:03

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Motor Vehicle	JOHN DEERE 200-LC	922716
FF0200X501453		
Motor Vehicle	JOHN DEERE 330-LC	922716
FF0330X080747		
Motor Vehicle	JOHN DEERE TC62H	922716
DWTC62H577315		
Motor Vehicle	JOHN DEERE 200-LC	922716
FF0200X501391		
Motor Vehicle	JOHN DEERE 450H	922716
TO450HX889199		
Motor Vehicle	JOHN DEERE 200-LC	922716
FF0200X501362		
Motor Vehicle	JOHN DEERE 850C	922716
TO850CX888907		
Motor Vehicle	BLAW-KNOX PF-5510.1 PAVER	922716
55102864		
Motor Vehicle	TRAMAC BREAKER MODEL NO. V55	922716
121444		

Additional Information

ADDED

1655890

1. D & T Mechanical Ltd. is only an Enterprise Debtor for a TimberJack 1270C Harvester, Serial No. 01AB2122
2. J-1 Contracting Ltd. is only an Enterprise Debtor respecting (i) a Dynapac CA251A, Serial No. 58314351, and (ii) a Tramac Breaker, Model No. V55, Serial No. 121444
3. Donovan Homes Limited is only an Enterprise Debtor respecting a John Deere 200 - LC, Serial No. FF0200X501453
4. Clarke's Trucking and Excavating Limited is only an Enterprise Debtor respecting a John Deere TC62H, Serial No. DWTC62H577315
5. R & K Construction Limited is only an Enterprise Debtor respecting a John Deere 200 - LC Serial No. FF0200X501391.

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 1285157  
Registration Date/Time : 2001-10-16 / 17:46  
Expiry Date : 2003-10-16  
Your File Number : 223386

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
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page 15

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200 LC Excavator, Serial Number FF0200X501038  
Shoe 800 MM 32" Triple Boom 1PC w/ Arm CYL & PLU  
Arm 2.9 (9'6") with BKTT C  
Cab w/ Air 200L  
270 LC Excavator, Serial Number FF0270X070607  
Base Shoes 800 M 32" Triple  
Boom One Piece W/CYL/Plum  
Arm 3.75 M (12'4") w/BKT  
and any proceeds therefrom.

Serial Numbered Collateral

ADDED

DELETED

Collateral Type

Serial Number Description

Motor Vehicle FF0270X070607	270 LC Excavator	1589114
Motor Vehicle FF0200X501038	200 LC Excavator	1589114

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 1587982  
Registration Date/Time : 2002-02-06 / 16:40  
Expiry Date : 2004-02-06  
Your File Number : NF7818-17

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	1587982	2002-02-06	16:40	2004-02-06	NF7818-17

Debtors

ADDED

DELETED

Debtor Type : Enterprise  
HICKMAN EQUIPMENT (1985) LIMITED  
  
P.O. BOX 820  
1269 TOPSAIL ROAD  
MOUNT PEARL NF Canada A1N 3C8

1587982

Secured Parties

ADDED

DELETED

JOHN DEERE CREDIT INC.

1587982

SUITE 401 1001 CHAMPLAIN AVENUE



2002-03-20  
11:03

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BURLINGTON ON Canada L7L 5Z4

General Description Collateral

ADDED

1587982

A SECURITY INTEREST IS TAKEN IN THE FOLLOWING MOTOR VEHICLES:

SERIAL NUMBERS:

45197  
6CRO0908  
53Y03481  
76A3939  
11236  
17CP005162  
TD310DG789868  
P00160X040198  
106032  
644S095E

AND IN ANY INSURANCE AND ANY PROCEEDS THEREOF AND THEREFROM IN  
ANY FORM WHATSOEVER.

Serial Numbered Collateral

ADDED

DELETED

Collateral Type

Serial Number Description

Motor Vehicle	1587982
644S095E	
Motor Vehicle	1587982
106032	
Motor Vehicle	1587982
P00160X040198	
Motor Vehicle	1587982
TD310DG789868	
Motor Vehicle	1587982
17CP005162	
Motor Vehicle	1587982
11236	
Motor Vehicle	1587982
76A3939	
Motor Vehicle	1587982
53Y03481	
Motor Vehicle	1587982
6CRO0908	
Motor Vehicle	1587982
45197	

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 1585733

2002-03-20  
11:03

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Registration Date/Time : 2002-02-05 / 19:14  
Expiry Date : 2005-02-05  
Your File Number : 107378-M21

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	1585733	2002-02-05	19:14	2005-02-05	107378-M21

Debtors	ADDED	DELETED
Debtor Type : Enterprise HICKMAN EQUIPMENT (1985) LIMITED 1269 TOPSAIL ROAD Mount Pearl NF Canada A1N 3C8	1585733	

Secured Parties	ADDED	DELETED
DaimlerChrysler Financial Services (dchis) Canada Inc. 200 - 6701 Financial Drive Mississauga ON Canada L5N 7J7 MERCEDES-BENZ CREDIT OF CANADA 6701 FINACIAL DR., SUITE 200 MISSISSAUGA ON Canada L5N 7J7	1585733	

General Description Collateral	ADDED	DELETED
ALL ATTACHMENTS, ACCESSORIES, ADDITIONS, ALTERATIONS, REPLACEMENTS & REPAIRS (WHETHER PRESENT OR FUTURE) TO THE VEHICLE COLLATERAL. PROCEEDS: ALL CASH AND NON-CASH PROCEEDS OF THE VEHICLE COLLATERAL INCLUDING WITHOUT LIMITATION PROCEEDS DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH THE VEHICLE COLLATERAL OR THAT INDEMNIFIES OR COMPENSATES THE DEBTOR(S) FOR THE DESTRUCTION OR DAMAGE TO OR LOSS OF THE VEHICLE COLLATERAL. THE PROCEEDS MAY TAKE THE FORM OF ANY ONE OR MORE OF THE FOLLOWING: GOODS, DOCUMENT OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY, SECURITIES OR INTANGIBLES. ACCORDINGLY, ANY OF THE DEBTOR(S) AFTER-ACQUIRED PERSONAL PROPERTY MAY BE PROCEEDS AND THEREFORE SUBJECT TO THE SECURED PARTY'S SECURITY INTEREST.	1585733	

Serial Numbered Collateral	ADDED	DELETED
Collateral Type Serial Number Description		
Motor Vehicle TD450HX883089	2000 JOHN DEERE 450H CRAWLER DOZER	1585733

2002-03-20  
11:03

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History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	1567655	2002-01-25	15:54	2007-01-25	106040-CC9

Debtors	ADDED	DELETED
Debtor Type : Enterprise Hickman Equipment (1985) Ltd. 1269 Topsail Road Mount Pearl NF Canada A1N 3C8	1567655	

Secured Parties	ADDED	DELETED
Ingersoll-Rand Canada Inc. 51 Worcester Road Rexdale ON Canada M9W 4K2	1567655	

Serial Numbered Collateral	ADDED	DELETED
Collateral Type Serial Number Description Motor Vehicle 2000 Ingersoll-Rand PF5510 Paver 55102864	1567655	

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 1567646  
Registration Date/Time : 2002-01-25 / 15:54  
Expiry Date : 2007-01-25  
Your File Number : 106039-CC9

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	1567646	2002-01-25	15:54	2007-01-25	106039-CC9

Debtors	ADDED	DELETED
Debtor Type : Enterprise Hickman Equipment (1985) Ltd. 1269 Topsail Road	1567646	

2002-03-20  
11:03

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Mount Pearl NF Canada A1N 3C8

Secured Parties

ADDED DELETED

Ingersoll-Rand Canada Inc.

1567646

51 Worcester Road

Rexdale ON Canada M9W 4K2

Serial Numbered Collateral

ADDED DELETED

Collateral Type

Serial Number Description

Motor Vehicle  
154621

1999 Ingersoll-Rand VR642 Forklift

1567646

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 1567637  
Registration Date/Time : 2002-01-25 / 15:54  
Expiry Date : 2007-01-25  
Your File Number : 106038-CC9

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	1567637	2002-01-25	15:54	2007-01-25	106038-CC9

Debtors

ADDED DELETED

Debtor Type : Enterprise

1567637

Hickman Equipment (1985) Ltd.

1269 Topsail Road

Mount Pearl NF Canada A1N 3C8

Secured Parties

ADDED DELETED

Ingersoll-Rand Canada Inc.

1567637

51 Worcester Road

Rexdale ON Canada M9W 4K2

Serial Numbered Collateral

ADDED DELETED

Collateral Type

Serial Number Description

2002-03-20  
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Serial Number	Description	
Motor Vehicle FF0200XS01479	John Deere 200LC Excavator	1544421

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 1544225  
Registration Date/Time : 2002-01-12 / 16:58  
Expiry Date : 2007-01-12  
Your File Number :

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	1544225	2002-01-12	16:58	2007-01-12	

Debtors	ADDED	DELETED
Debtor Type : Enterprise HICKMAN EQUIPMENT (1985) LIMITED 1269 TOPSOIL Road MOUNT PEARL NF Canada A1N3C8	1544225	
Secured Parties	ADDED	DELETED
CREDIT UNION CENTRAL OF SASKATCHEWAN C/O CULEASE FINANCIAL SERVICES P.O. BOX 3030 2055 ALBERT Street REGINA SK Canada S4P3G8	1544225	
CO-OPERATIVE TRUST COMPANY OF CANADA O/A CULEASE FINANCIAL SERVICES JOHNSON, BRENT P.O. BOX 3030 2055 ALBERT Street REGINA SK Canada S4P3G8 Telephone : 800-409-2029 Fax : 800-852-9097	1544225	
General Description Collateral	ADDED	
CLASSIFICATION: CONSUMER GOODS, INVENTORY, EQUIPMENT, ACCOUNTS, OTHER	1544225	

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PROCEEDS INCLUDING BUT NOT LIMITED TO: GOODS, CHATTEL PAPER,  
SECURITIES,  
DOCUMENTS OF TITLE, INSTRUMENTS, MONEY, INTANGIBLES, INSURANCE  
AND ALL OTHER  
PROCEEDS ARISING DIRECTLY OR INDIRECTLY FROM THE DISPOSITION,  
EXCHANGE, LOSS,  
REPLACEMENT, RENEWAL, DESTRUCTION OF OR DEALING WITH THE  
COLLATERAL.

Serial Numbered Collateral		ADDED	DELETED
Collateral Type	Description		
Motor Vehicle	2001 JOHN DEERE 1050C DOZER	1544225	
LU1050C005288			
Motor Vehicle	2000 JOHN DEERE 160LC EXCAVATOR	1544225	
FF0160X041361			
Motor Vehicle	2001 JOHN DEERE 850C DOZER	1544225	
TU850CX900908			
Motor Vehicle	2001 JOHN DEERE 200LC EXCAVATOR	1544225	
FF0200X502017			
Motor Vehicle	2001 JOHN DEERE 160LC EXCAVATOR	1544225	
PO0160X041793			
Motor Vehicle	2001 JOHN DEERE 160LC EXCAVATOR	1544225	
PO0160X041792			
Motor Vehicle	2001 JOHN DEERE 160LC EXCAVATOR	1544225	
PO0160X041741			
Additional Information		ADDED	
		1544225	

AMOUNT SECURED: \$2,151,952.63  
NO FIXED DATE OF MATURITY

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 1543413  
Registration Date/Time : 2002-01-11 / 15:49  
Expiry Date : 2008-01-11  
Your File Number : 13922-8 (RWS)

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	1543413	2002-01-11	15:49	2008-01-11	13922-8 (RWS)

Debtors

ADDED DELETED

2002-03-20  
11:03

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PO BOX 820  
Mount Pearl NF Canada A1N 2M3

Secured Parties

ADDED

DELETED

NATIONAL LEASING GROUP INC

493304

1558 WILLSON Place  
WINNIPEG MB Canada R3T 0Y4  
Telephone : 204-954-9000  
Fax : 204-954-9087

General Description Collateral

ADDED

493304

ALL PORTABLE COMPUTER SYSTEMS, SOFTWARE OF EVERY NATURE OR KIND  
DESCRIBED IN LEASE NUMBER 2089410 DATED AUGUST 18, 2000 BETWEEN  
THE SECURED PARTY AS LESSOR AND THE DEBTOR AS LESSEE, AS AMENDED  
FROM TIME TO TIME, TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES AND  
SUBSTITUTIONS.

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 461285  
Registration Date/Time : 2000-08-02 / 17:48  
Expiry Date : 2006-08-02  
Your File Number : 130223

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	461285	2000-08-02	17:48	2006-08-02	130223
Amendment	461267	2000-08-14	17:12	2006-08-02	130223
Amendment	485797	2000-08-16	17:47	2006-08-02	130223
Amendment	487223	2000-08-18	14:20	2006-08-02	130223
Amendment	514026	2000-08-31	13:25	2006-08-02	130223

Debtors

ADDED

DELETED

Debtor Type : Enterprise  
Hickman Equipment (1985) Limited

461285

P.O. Box 820 Topsail Road W  
Mt. Pearl NF Canada A1N 3C8

Secured Parties

ADDED

DELETED

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11:03

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CIT Financial Ltd.

461285

SUITE 700 207 Queens Quay W  
Toronto ON Canada M5J 1A7

General Description Collateral

ADDED

461285

Five 2000 John Deere 200LC excavators, two 2000 John Deere 310SE backhoe loaders, one 2000 John Deere 644H 4WD loader, one 2000 John Deere TC62H T.C. loader and one 2000 John Deere 544H 4WD loader.

Together with all accessions, attachments, accessories and proceeds in any form including goods, documents of title, chattel paper, securities, instruments, money or intangibles.

485797

Five 2000 John Deere 330LC excavators, one 2000 John Deere 450LC excavator and one 2000 John Deere 644H loader.

Serial Numbered Collateral

ADDED

DELETED

Collateral Type

Serial Number

Description

Motor Vehicle FF0200X501390	2000 John Deere 200LC	461285	
Motor Vehicle TD310SE890935	2000 John Deere 310 SE	461285	
Motor Vehicle DW544HX577412	2000 John Deere 544H	461285	
Motor Vehicle TD310SE890549	2000 John Deere 310SE	461285	
Motor Vehicle DWTC62H577315	2000 John Deere TC62H	461285	
Motor Vehicle FF0200X501455	2000 John Deere 200LC	461285	
Motor Vehicle FF0200X501435	2000 John Deere 200LC	461285	514026
Motor Vehicle FF0200X501479	2000 John Deere 200LC	461285	
Motor Vehicle DW644HX577435	2000 John Deere 644H	461285	
Motor Vehicle FF0200X051249	2000 John Deere 200LC	461285	
Motor Vehicle FF0330X080747	2000 JOHN DEERE 330LC	481267	
Motor Vehicle FF0330X08850	2000 JOHN DEERE 330LC	481267	487223
Motor Vehicle FF0450X090542	2000 JOHN DEERE 450LC	481267	
Motor Vehicle DW644HX577290	2000 JOHN DEERE 644H	481267	
Motor Vehicle FF0330X080883	2000 JOHN DEERE 330LC	481267	



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Motor Vehicle	2000 JOHN DEERE 330LC	481267	
FF0330X080882			
Motor Vehicle	2000 JOHN DEERE 330LC	481267	487223
FF0330X08881			
Motor Vehicle	2000 JOHN DEERE 330LC	487223	
FF0330X080850			
Motor Vehicle	2000 JOHN DEERE 330LC	487223	
FF0330X080881			
Motor Vehicle	2000 John Deere 200LC	514026	
ff0200x501453			

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 437459  
Registration Date/Time : 2000-07-21 / 12:00  
Expiry Date : 2005-07-21  
Your File Number : 12144

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	437459	2000-07-21	12:00	2005-07-21	12144
Amendment	1593065	2002-02-08	16:00	2005-07-21	GE-6309

Debtors

ADDED DELETED

Debtor Type : Enterprise  
HICKMAN EQUIPMENT (1985) LIMITED  
P.O. BOX 820  
1269 TOPSAIL Road  
MOUNT PEARL NF Canada A1N 3N8

437459

Secured Parties

ADDED DELETED

MELLON LEASING D/O MELLON BANK CANADA  
ROYAL TRUST TOWER T-D CENTRE  
SUITE 3200 77 KING Street W  
TORONTO ON Canada M5K 1K2

437459 1593065

GE Capital Leasing Services, Inc.

1593065

Floor 4th 5420 North Service Road  
Burlington ON Canada L7L 6C7

General Description Collateral

ADDED

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Debtor Type : Enterprise  
HICKMAN EQUIPMENT (1985) LIMITED

222737

TOPSAIL Road W  
MOUNT PEARL NF Canada A1N 3C8

Secured Parties

ADDED

DELETED

ABN AMRO BANK CANADA

222737

5515 NORTH SERVICE Road  
BURLINGTON ON Canada L7L 6G4

ABN AMRO LEASING

222737

5515 NORTH SERVICE Road  
BURLINGTON ON Canada L7L 6G4

General Description Collateral

ADDED

222737

ALL INVENTORY AND EQUIPMENT NOW OR HEREAFTER ACQUIRED BY THE  
DEBTOR AND FINANCED IN WHOLE OR PART BY SECURED PARTY; ALL BOOK  
DEBTS RELATING THERETO AND ALL MONETARY AND NON-MONETARY PROCEEDS  
THEREFROM.

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 220780  
Registration Date/Time : 2000-04-14 / 14:34  
Expiry Date : 2006-04-14  
Your File Number : NF8090-26

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	220780	2000-04-14	14:34	2006-04-14	NF8090-26

Debtors

ADDED

DELETED

Debtor Type : Enterprise  
HICKMAN EQUIPMENT (1985) LIMITED

220780

P.O. BOX 820  
TOPSAIL Road W  
MOUNT PEARL NF Canada A1N 3C8

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## Secured Parties

ADDED DELETED  
=====

ABN AMRO LEASING, A DIVISION OF ABN AMRO BANK CANADA

220780

5515 NORTH SERVICE Road  
BURLINGTON ON Canada L7L 6G4

## General Description Collateral

ADDED  
=====

220780

ALL EQUIPMENT NOW OR HEREAFTER SOLD, LEASED, SUPPLIED OR FINANCED BY ABN AMRO LEASING TO HICKMAN EQUIPMENT (1985) LIMITED, TOGETHER WITH ALL ADDITIONS, ATTACHMENTS, APPLIANCES, PARTS, INSTRUMENTS, APPURTENANCES, ACCESSORIES, FURNISHINGS AND OTHER PARTS OF WHATEVER NATURE WHICH MAY FROM TIME TO TIME BE INCORPORATED OR INSTALLED IN OR ATTACHED TO THE EQUIPMENT AND ANY AND ALL REPLACEMENTS, SUBSTITUTIONS OR EXCHANGES THEREFOR AND THE PROCEEDS OF EVERY TYPE, ITEM OR KIND (CASH AND NON-CASH), INCLUDING INSURANCE PROCEEDS THEREOF (THE "EQUIPMENT");

(I) TO THE EXTENT THE EQUIPMENT MAY CONSTITUTE OR BE DEEMED TO BE INVENTORY, SUCH EQUIPMENT NOW OR HEREAFTER OFFERED OR FURNISHED UNDER ANY CONTRACT OF SERVICE OR INTENDED FOR SALE OR LEASE, ANY AND ALL ADDITIONS, ATTACHMENTS, ACCESSORIES AND ACCESSIONS THERETO, ANY AND ALL SUBSTITUTIONS, REPLACEMENTS OR EXCHANGES THEREFOR, ANY AND ALL LEASES, SUBLEASES, RENTALS, ACCOUNTS AND CONTRACTS WITH RESPECT TO THE EQUIPMENT WHICH MAY NOW EXIST OR HEREAFTER ARISE, TOGETHER WITH ALL RIGHTS THEREUNDER AND ALL RENTAL AND OTHER PAYMENTS AND PURCHASE OPTIONS DUE AND TO BECOME DUE THEREUNDER, ANY AND ALL SALES PROCEEDS PAYABLE FOR SUCH PROPERTY, ALL INSURANCE, BONDS AND/OR OTHER PROCEEDS OF THE PROPERTY AND ALL RETURNED OR REPOSSESSED EQUIPMENT NOW OR AT ANY TIME OR TIMES HEREAFTER IN THE POSSESSION OR CONTROL OF THE DEBTOR OR THE UNDERSIGNED (THE "INVENTORY"); AND

(II) ALL ACCOUNTS, BOOK ACCOUNTS AND BOOK DEBTS, DUES, CLAIMS, CHARGES IN ACTION AND DEMANDS OF ANY NATURE NOW OWNED BY THE DEBTOR OR HEREAFTER ACQUIRED OR OWNED BY THE DEBTOR THAT MIGHT ARISE OR RESULT FROM ANY LEASE OR OTHER DISPOSITION OF ANY OF THE EQUIPMENT OR THE INVENTORY, INCLUDING, BUT NOT LIMITED TO, ANY RIGHT OF THE DEBTOR TO PAYMENT FOR EQUIPMENT OR INVENTORY SOLD OR LEASED OR UNDER ANY CONTRACT FOR SERVICES, WHETHER OR NOT EVIDENCED BY AN INSTRUMENT OR CHATTEL PAPER, AND WHETHER OR NOT SUCH RIGHT HAS BEEN EARNED BY PERFORMANCE (THE "ACCOUNTS");

## Serial Numbered Collateral

ADDED DELETED  
=====

## Collateral Type

Serial Number

Description

Motor Vehicle

624H 4WD LOADER

220780

DW624HX576034

Motor Vehicle

TC54H T.C. LOADER

220780

DWTCS4HS75868

Motor Vehicle

450LC BASE EXCAVATOR

220780

FF04S0X090477

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1269 TOPSAIL ROAD  
Mount Pearl NF Canada A1C 3C8

Secured Parties

ADDED DELETED  
=====

Charter Financial Company

171819

505 Consumers Road, Suite 402  
Toronto ON Canada M2J 4V8

General Description Collateral

ADDED  
=====

171819

"2 JOHN DEERE EXCAVATORS together with all attachments, accessories, accessions, replacements, substitutions, additions and improvements thereto, and all proceeds in any form derived directly or indirectly from any dealing with the collateral or proceeds thereof, and without limitation, money, cheques, deposits in deposit-taking institutions, goods, accounts receivable, rents or other payments arising from the lease of the collateral, chattel paper, instruments, intangibles, documents of title, securities, and rights of insurance payments or any other payments as indemnity or compensation for loss or damage to the collateral or proceeds of the collateral."

Serial Numbered Collateral

ADDED DELETED  
=====

Collateral Type

Serial Number Description

Motor Vehicle FF0370X080344	1999 JOHN DEERE 370XX	171819
Motor Vehicle FF0330X080519	1999 JOHN DEERE 330LC	171819

Registration Details

Province/Territory : Newfoundland and Labrador  
Registration Type : PPSA Financing Statement  
Registration Number : 169813  
Registration Date/Time : 2000-03-21 / 19:07  
Expiry Date : 2005-03-21  
Your File Number : 9773-CC1

History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	169813	2000-03-21	19:07	2005-03-21	9773-CC1
Amendment	1613775	2002-02-20	19:24	2005-03-21	9773-CC1

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	ADDED	DELETED
<b>Debtors</b>		
=====	=====	=====
Debtor Type : Enterprise	169813	
HICKMAN EQUIPMENT (1985) LIMITED		
1269 TOPSAIL ROAD		
Mount Pearl NF Canada A1C 3C8		

	ADDED	DELETED
<b>Secured Parties</b>		
=====	=====	=====
Charter Financial Company	169813	1613775
505 Consumers Road, Suite 402		
Toronto ON Canada M2J 4V8		
WELLS FARGO EQUIPMENT FINANCE COMPANY	1613775	
505 CONSUMERS ROAD SUITE 402		
Toronto ON Canada M2J 4V8		

	ADDED	DELETED
<b>General Description Collateral</b>		
=====	=====	=====
"JOHN DEERE EXCAVATOR together with all attachments, accessories, accessions, additions and improvements thereto."	169813	

	ADDED	DELETED
<b>Serial Numbered Collateral</b>		
=====	=====	=====
<b>Collateral Type</b>		
Serial Number Description		
Motor Vehicle 1999 JOHN DEERE 200LC	169813	
FF0200X500917		

## Registration Details

```

Province/Territory      : Newfoundland and Labrador
Registration Type        : PPSA Financing Statement
Registration Number      : 169805
Registration Date/Time   : 2000-03-21 / 19:07
Expiry Date              : 2005-03-21
Your File Number        : 9772-CC1
  
```

## History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	169805	2000-03-21	19:07	2005-03-21	9772-CC1

	ADDED	DELETED
<b>Debtors</b>		
=====	=====	=====

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Activity	Number	Date	Time	Expiry Date	Your File Number
Original	116111	2000-02-21	16:54	2003-02-21	6703-GM1

## Debtors

ADDED DELETED

Debtor Type : Enterprise  
HICKMAN EQUIPMENT (1985) LTD.

116111

1269 TOPSAIL RD  
Mount Pearl NF Canada A1N 2C8

## Secured Parties

ADDED DELETED

GMAC Leasaco Limited

116111

210 - 255 Lacewood Drive  
Halifax NS Canada B3M 4G2

## General Description Collateral

ADDED

116111

AND ALL PROCEEDS THEREFROM.

## Serial Numbered Collateral

ADDED DELETED

## Collateral Type

Serial Number Description

Motor Vehicle 2000 JOHN DEERE  
T0750CX882592

116111

## Registration Details

Province/Territory : Newfoundland and Labrador  
 Registration Type : PPSA Financing Statement  
 Registration Number : 112581  
 Registration Date/Time : 2000-02-18 / 15:46  
 Expiry Date : 2004-02-18  
 Your File Number :

## History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	112581	2000-02-18	15:46	2004-02-18	
Amendment	1339091	2001-11-08	12:39	2004-02-18	

## Debtors

ADDED DELETED

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Debtor Type : Enterprise  
Hickman Equipment (1985) Limited  
King, John  
1269 Topsoil Road  
Mont. Pearl NF Canada A1N 3C8

112581

Secured Parties

ADDED

DELETED

Bombardier Capital Leasing Ltd.  
Cormier, Marc , Regional Manager  
SUITE 601 440 King Street  
Fredericton NB Canada E3B 5H6  
Telephone : 506-460-6534  
Fax : 506-460-6505

112581

1339091

Bombardier Capital Leasing Ltd.  
, , Legal  
SUITE 200 6400 Auteuil Street  
Brossard NB Canada J4Z3P5  
Telephone : 450-443-4400  
Fax : 450-443-2423

1339091

General Description Collateral

ADDED

112581

1 Wheel Loader, model TC62H, serial number: DWTC62H567754  
1 Wheel Loader, model 244H, serial number: T6244HX000131  
1 Backhoe, model 310E, serial number: T0310EX846764  
1 Backhoe, model 310SF, serial number: T0310SE847170  
1 Wheel Loader, model 744H, serial number: DW744HM567458  
1 Wheel Loader, model 644G, serial number: DW644GB566323  
1 Excavator, model 690E, serial number: DW690EL565815  
2 Excavators, model 200LC, serial numbers: FFO200X050658,  
FFO200X050655

1339091

Nov 8, 2001

1 Wheel Loader, model TC62H, serial number: DWTC62H567754  
1 Wheel Loader, model 244H, serial number: T6244HX000131  
1 Backhoe, model 310E, serial number: T0310EX846764  
1 Backhoe, model 310SF, serial number: T0310SE847170  
1 Wheel Loader, model 744H, serial number: DW744HM567458  
1 Wheel Loader, model 644G, serial number: DW644GB566323  
1 Excavator, model 690E, serial number: DW690EL565815  
2 Excavators, model 200LC, serial numbers: FFO200X050658,  
FFO200X050655

excluded the collateral subject to the discharge:

1 Backhoe, model 310SF, serial number: T0310SE847170  
1 Excavator, model 690E, serial number: DW690EL565815

Serial Numbered Collateral

ADDED

DELETED

Collateral Type

Serial Number Description

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Motor Vehicle	Excavator, model 200LC	112581	
FF0200X050655			
Motor Vehicle	Excavator, model 200LC	112581	
FF0200X050658			
Motor Vehicle	Excavator, model 690E	112581	1339091
DW690EL565815			
Motor Vehicle	Wheel Loader, model 644G	112581	
DW644GB566323			
Motor Vehicle	Wheel Loader, model 744H	112581	
DW744HM567458			
Motor Vehicle	Backhoe, model 310SF	112581	1339091
TU310SE847170			
Motor Vehicle	Backhoe, model 310E	112581	
TU310EX846764			
Motor Vehicle	Wheel Loader, model 244H	112581	
T6244HX000131			
Motor Vehicle	Wheel Loader, model TC62H	112581	
DWTC62H567754			

Pre-PPSA registration information continued by this registration  
=====

Number/ Date	County or Venue/ Act	ADDED =====	DELETED =====
704250	not applicable	112581	
1998-08-12	Conditional Sales Act		

## Registration Details

Province/Territory : Newfoundland and Labrador  
 Registration Type : PPSA Financing Statement  
 Registration Number : 112359  
 Registration Date/Time : 2000-02-18 / 14:39  
 Expiry Date : 2004-02-18  
 Your File Number :

## History of Registration Activity

Activity	Number	Date	Time	Expiry Date	Your File Number
Original	112359	2000-02-18	14:39	2004-02-18	

## Debtors

Debtor Type : Enterprise  
 Hickman Equipment (1985) Limited  
 King, John  
 1269 Topsoil Road  
 Mont. Pearl NF Canada A1N 3C8

ADDED  
=====

112359

DELETED  
=====

## Secured Parties

ADDED  
=====

DELETED  
=====



SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person	General Motors Acceptance Corporation of Canada, Limited ("GMAC")
Date of Document	13 March 2003
Summary of Order/Relief Sought or Statement of Purpose in Filing	Security Agreement (Leasing) Application Affidavit of Guy Brocks
Court Sub-File Number	7:34

2002 01 T0352

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR**

**IN THE MATTER OF** a Court ordered Receivership of Hickman Equipment (1985) Limited ("Hickman Equipment") pursuant to Rule 25 of the *Rules of the Supreme Court, 1986* under the *Judicature Act*, R.S.N.L. 1990, c. J-4, as amended

**AND IN THE MATTER OF** the *Bankruptcy and Insolvency Act*, Chapter B-3 of the Revised Statutes of Canada, 1985, as amended (the "BIA")

**AFFIDAVIT**

I, Guy Brocks, of 455 Fenelon Blvd., Dorval, in the Province of Quebec, do hereby say as follows:

1. That I am a Senior Analyst with General Motors Acceptance Corporation of Canada, Limited ("GMAC") and as such have personal knowledge of the matters herein deposed except where otherwise indicated.
2. That my duties as Senior Analyst include the administration of various security documents from our customers including leasing inventory chattel mortgages ("LICM")

- 2 -

(see Exhibit 1), security agreements (leasing) ("ISA") (see Exhibit 2) and general security agreements ("GSA") (see Exhibit 3).

3. My understanding of the effect of the ISA is that it provides GMAC with security on all of the customers' vehicular inventory which is greater than a LICM but less than that provided by a GSA.
4. On September 12<sup>th</sup> 1999 I e-mailed Mr. William Primeau, Field Support Office Manager for the Atlantic Region suggesting that GMAC obtain ISAs from its Newfoundland and Labrador customers (See Exhibit 4).
5. During the period December 1999 to July 25<sup>th</sup> 2000, I requested that our representatives obtain an ISA from Hickman Equipment (1985) Ltd. ("HEL"). (See Exhibit 4)
6. Effective July 25<sup>th</sup> 2000 HEL executed and delivered an ISA to GMAC. (See Exhibit 5)
7. That the interest rate charged HEL was a fixed rate quoted by GMAC from time to time in the form of correspondence, an example of which is attached hereto as Exhibit 6.
8. That from time to time other lenders to HEL would deliver to GMAC various notices or request waivers/acknowledgements from GMAC in the forms attached hereto as Exhibit 7.
9. That HEL carried on the business of leasing various vehicles including trucks, excavators, pavers, dozers, graders, air drills, loaders and backhoes, which would either be returned to HEL at the end of the lease or purchased by the lessee with a portion of the lease payments being applied to the purchase price (see Rental Agreement attached hereto as Exhibit 8).

- 3 -

**SWORN TO** before me at the City  
of Montreal, in the Province of  
Quebec, this 13<sup>th</sup>  
day of March, 2003:

André Cartier



# 118344

**COMMISSIONER OF OATHS IN AND FOR  
THE PROVINCE OF QUÉBEC**

  
**GUY BROCKS**

(O:\kendell\TK - 1041 - GMAC - Group Holdings\Pleadings\Afdvt - G Brocks - Mar 10-03.wpd)

herein referred to as the "collateral") and all proceeds thereof.

To have and to hold all and singular the collateral unto the secured party forever. And the lessor shall and will warrant and forever defend by these presents all and singular the collateral the secured party against the lessor and against all and every other person or persons whomsoever. Provided always, and these presents are upon this express condition, that if the lessor shall well and truly pay, or cause to be paid to the secured party in lawful money of Canada, at the office of the secured party herein mentioned or at such other office as it may hereafter designate, the total principal balance hereinafore set forth together with interest thereon at the rate designated herein and in the manner and at the times herein provided, then this mortgage and every manner and thing herein contained, shall cease, determine and be utterly void.

To further secure the payment of the said indebtedness the lessor hereby assigns to the secured party all its right, title and interest in and to the rents and other moneys hereinafter becoming payable under and by virtue of the lease described below or which may become payable by reason of the leasing or rental of the collateral under any other lease or rental agreement, and in and to all proceeds of sale of the collateral. The Provisions on the reverse side hereof are incorporated herein as part of this Chattel Mortgage and Assignment.

PAGE 19/55 \* RCVD AT 3/18/2003 9:53:54 AM [Eastern Standard Time] \* SVR:/3 \* DNIS:8907 \* CSID:7221428 \* DURATION (mm-ss):21-08

## PROVISIONS

1. No transfer, renewal, extension or assignment of this chattel mortgage or any interest hereunder and no loss, damage or destruction of collateral, shall release the lessor from the obligations secured hereunder.
2. The lessor shall at all times keep the collateral free of all taxes, liens and encumbrances, and any sums of money that may be paid by the secured party in release or discharge thereof or for insurance coverage, if lessor fails to arrange for such coverage as required in provision 7, shall be paid on demand as an additional part of the indebtedness secured hereunder. The lessor shall not mortgage, pledge, grant or create any other security interest in the collateral and shall not transfer or otherwise dispose of said collateral without the consent of the secured party until payment of the indebtedness hereunder. Any and all cash proceeds of any sale permitted shall be fully accounted for and promptly paid over to the secured party, to be applied to the payment of the indebtedness secured.
3. Lessor warrants and covenants that the lessor:
  - (a) has title to the collateral and that such collateral, leases and rentals are free and clear of all liens and encumbrances;
  - (b) has delivered or is in the process of delivering the collateral to the lessee under a bona fide lease agreement unless collateral is to be used for daily rental service;
  - (c) shall not use or permit the collateral to be used illegally or improperly;
  - (d) shall comply with all laws and regulations affecting the collateral;
  - (e) shall maintain collateral in good condition and repair;
  - (f) shall promptly account to and pay over to secured party the unpaid principal balance applicable to any collateral removed from lease, sold, destroyed or in the judgment of secured party rendered unsuitable for further lease or rental; and
  - (g) has or will promptly pay selling-dealer for collateral secured hereunder.
4. In the event of default or failure by or on the part of the lessor in the prompt payment of any amount payable hereunder or in the payment of any other indebtedness of the lessor to secured party now or hereafter owing or in the due performance of or compliance with any of the terms or conditions thereof, or any representation or warranty herein shall be untrue, or that a proceeding in bankruptcy, insolvency, receivership or reorganization, be instituted by or against the lessor or his property, or the business of the lessor is in any way liquidated or if the secured party at any time considers itself insecure, the secured party shall have the right, at its election, to declare the unpaid principal balance of all indebtedness due the secured party, to be immediately due and payable and the secured party may take immediate possession of said collateral, including any attachments or accessories thereto, without demand or further notice and without legal process.
5. In the event possession of the said collateral shall be taken as aforesaid, the secured party shall have such rights and remedies as are provided and permitted by law, including the right upon fifteen days prior written notice to dispose of any part or all of the collateral at such price or prices and upon such terms, either for cash or on credit as secured party in its sole discretion may determine. From proceeds of any such disposition, the secured party shall deduct all expenses of taking, preparing for disposition and disposing of the collateral and any other reasonable expenses incurred by the secured party in connection therewith including any and all reasonable legal costs, fees and expenses incurred. The balance thereof shall be applied on account of the total amount of indebtedness due by lessor to the secured party and said expenses and any surplus shall be paid over to the lessor. If the proceeds of such disposition are not sufficient to defray said expenses and satisfy the indebtedness of the lessor to the secured party, lessor shall pay and secured party may recover the deficiency together with interest and expenses incurred by secured party as aforesaid. Where the collateral is in the possession of the lessee thereof as contemplated by this chattel mortgage, the giving of a notice to such lessee and to the mortgagee by prepaid registered mail declaring the collateral repossessed shall be conclusively deemed to be good and sufficient repossession of such collateral to the same extent as if actual physical possession thereof had been taken.
6. The lessor will keep the secured party advised as to all lessee names and addresses and will provide secured party with copies of all executed lease or rental agreements and related schedules upon request. The lessor will maintain and permit secured party at any reasonable time to examine any of its books and records pertaining to the collateral and will provide secured party with copies of financial statements and other information concerning the lessor's financial condition as the secured party may require from time to time. In completing collateral audits secured party may contact lessees directly from time to time.
7. The lessor hereby assigns and grants absolutely to secured party, and gives secured party a security interest in, all of the lessor's rights and interest in and to any and all rentals becoming payable with respect to any collateral under each and every lease entered into by lessor with respect thereto and hereby authorizes the secured party, in its own name or in the name of the lessor to do any and all things necessary and proper to effectuate all of the lessor's rights and interest in and to any and all such rentals becoming payable with respect to any collateral under each and every lease. Provided, however, that the lessor shall have the right to rentals as long as no default by lessor under this or any other chattel mortgage held by secured party occurs. The lessor shall not make any other assignment of its rights and interest in such rentals.
8. The lessor will insure or have the lessee insure the collateral against all loss, damage or destruction, due to fire, theft or physical damage and shall procure and maintain liability insurance against all liability for bodily injury or damage to property in such form and amount as the secured party may require. Copies of such policies will be provided to secured party upon request.
9. The lessor will do all such acts and execute all instruments of further assurance as shall be reasonably requested by the secured party to do or execute for the purpose of fully carrying out and effectuating this chattel mortgage and its intent and shall furnish all documents that secured party shall reasonably request. Lessor also agrees when requested to do all things necessary to perfect secured party's security interest in the collateral.
10. No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the secured party shall impair or affect the secured party's right thereafter to exercise same.
11. Any provision of this chattel mortgage prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof.
12. To the extent permitted by law, lessor, if a corporation, hereby agrees that in the Province of British Columbia, the provisions of sections 23, 24, 25(1), 26, 27 and 28 of the Chattel Mortgage Act, in the Province of Saskatchewan, The Limitation of Civil Rights Act, and in the Province of Alberta, the provisions of section 49 of the Law of Property Act, as the said acts may from time to time be amended, replaced or substituted, shall have no application to this chattel mortgage or any mortgage, charge or other security for the payment of money connected therewith or collateral thereto, or any agreement or instrument renewing or extending this chattel mortgage, all the rights, benefit or protection whereof are hereby specifically waived by the lessor.
13. This chattel mortgage shall ensure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

**EXHIBIT****2****SECURITY AGREEMENT (LEASING)**

**TO: GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED  
(GMAC)**

In the course of business, we acquire new and used vehicles (including chassis) from manufacturers, distributors and others which we will hold for lease or which now or may be leased to the public, all of which are hereinafter referred to as "Vehicles", which term shall include all vehicles of like kinds or types now owned or hereafter acquired by us (including all accessories and attachments thereto) and all replacements and substitutions therefor and all additions and accessions thereto.

We desire GMAC to furnish financing accommodation to us upon the security of Vehicles and proceeds thereof and hereby agree, upon demand, to pay to GMAC the amount it advances or is obligated to advance in connection with the financing by GMAC of Vehicles with interest at the rate per annum designated by GMAC from time to time and then in force under the GMAC Wholesale Plan or otherwise as may be agreed upon.

To secure collectively the payment of all amounts owing by us to GMAC including, without limitation, all amounts advanced by GMAC or which GMAC may be obligated to advance as aforesaid and all amounts owing by us to GMAC from time to time in connection with the financing of Vehicles leased by us to the public and interest due thereon and any ultimate balance thereof, we hereby grant, assign, transfer, set over, mortgage and charge in favour of and grant to GMAC a security interest in all Vehicles so acquired and in the proceeds thereof and in all leases relating thereto to the full extent provided or permitted by law. The word proceeds shall have the meaning ascribed to it under applicable personal property security laws.

Our possession of the Vehicles shall be for the purpose of storing and exhibiting same for lease and the leasing thereof to the public in the ordinary course of business. Save as hereinafter provided we shall not use the Vehicles illegally, improperly or for hire. GMAC shall at all times have the right of access to and inspection of the Vehicles and the right to examine our books and records pertaining to the Vehicles.

We agree to keep the Vehicles free of all taxes, liens and encumbrances, and any sum of money that may be paid by GMAC in release or discharge thereof shall be paid to GMAC on demand as an additional part of the obligation secured hereunder.

We shall not mortgage, pledge or lend the Vehicles and shall not transfer or otherwise dispose of or encumber them except as in the next paragraph more particularly provided. We shall execute in favour of GMAC any form of document which may reasonably be required by GMAC for the amounts advanced to the manufacturer, distributor or seller, and shall execute such additional documents as GMAC may at any time reasonably request in order to confirm or perfect title or security in the Vehicles. Execution by us of any instrument for the amount advanced shall be deemed evidence of our obligation and not payment therefor. We authorize GMAC or any of its officers or employees or agents to execute such documents in our behalf and to supply any omitted information and correct patent errors in any document executed by us as such officers, employees or agents may reasonably consider necessary and the said officers, employees and agents and each of them are hereby appointed our true and lawful attorney for such purposes.

We understand that we may lease the Vehicles in the ordinary course of business and all such Vehicles shall be held by us as inventory. We further agree that as each such Vehicle is sold, we will faithfully and promptly remit to you the amount you advanced or have become obligated to advance on our behalf pursuant to this agreement, with interest at the aforesaid rate per annum designated and in effect under the GMAC Wholesale Plan or as otherwise agreed and any other amounts which we may have become obligated to pay with respect to such Vehicle.

At the option of GMAC, all amounts secured by this agreement shall immediately and automatically become due and payable upon the happening of any of the following events:

- (a) if we shall fail to pay any amounts secured by this agreement when due or comply with any of the terms and conditions of this or any other agreement with GMAC;
- (b) if we shall cease or threaten to cease to carry on business in the normal course, commit an act of bankruptcy, become insolvent, make an authorized assignment or a bulk sale of our assets or if we should propose a compromise or arrangement to our creditors or if a receiver should be appointed of any part of our assets;
- (c) if any proceeding is taken in bankruptcy, insolvency or receivership by or against us or with respect to a compromise or arrangement, or to have us declared bankrupt or wound-up, or if any encumbrancer takes possession of any part of our assets;
- (d) if any execution, sequestration or extent or any other process of any court having jurisdiction becomes enforceable against us or if any distress or analogous process is levied upon our assets or any part thereof; or
- (e) if GMAC in good faith deems itself insecure or the vehicles to be in danger of misuse, loss, seizure or confiscation or that the prospect of payment or performance by us under this agreement is impaired.

Upon the happening of any of the foregoing events, GMAC may:

- (a) take immediate possession of the said Vehicles, without demand or further notice and without legal processes; for the purposes of facilitating such taking of possession and in the furtherance thereof, we shall, if GMAC so requests, assemble said Vehicles and make them available to GMAC at a reasonable convenient place designated by it, and GMAC shall have the right, and we hereby authorize and empower GMAC, to enter upon the premises wherever said Vehicles may be and remove the same. Thereupon GMAC may sell the said Vehicles and apply the net proceeds, after deducting all expenses and expenditures of taking and keeping possession thereof including reasonable legal fees and costs and any other legal expenses in connection with GMAC's exercise of any of its rights and remedies under this agreement, on account of amounts owing by us to GMAC and we shall be liable for any deficiency resulting from such sale and shall pay the same to GMAC forthwith upon demand. In the event of repossession of Vehicles as aforesaid by GMAC, the rights and remedies under applicable laws shall apply; provided that to the extent permitted by law, we, if a corporation, hereby agree that in the Province of Saskatchewan, The Limitation of Civil Rights Act, as the said Act is amended or may from time to time be amended, shall have no application to this agreement or any mortgage, charge or other security for the payment of money connected herewith or collateral hereto, or any agreement or instrument renewing or extending this agreement; all rights, benefits or protection whereof we hereby specifically waive;
- (b) in its discretion, appoint by a document in writing a receiver or a receiver and manager (hereinafter referred to as the "receiver"), of the Vehicles or any part thereof and may

remove any receiver so appointed and appoint another in his or its place. A receiver so appointed shall be vested with all and any of the powers and discretions of GMAC and, without limiting the generality of the foregoing, such receiver shall have the power:

- (i) to take possession of the Vehicles or any part thereof;
- (ii) to carry on our business or any part thereof;
- (iii) to borrow money required for the maintenance, preservation or protection of the Vehicles or any part thereof or for the carrying on of our business;
- (iv) to sell all or any portion of the Vehicles on those terms and conditions and in the manner that the receiver may establish.

A receiver so appointed by GMAC is considered to be our agent and GMAC shall not in any way be responsible for any misconduct or negligence of said receiver.

All the terms and provisions of this agreement shall be construed and determined in accordance with laws of the province where we maintain our principal place of business; provided, however, that any term, condition, clause or provision of this agreement which is not in conformity with the requirements of or is prohibited by such applicable laws of the said province shall be ineffective in that province, to the extent of such non-conformity or prohibition, without invalidating the remaining terms, conditions, clauses and provisions of this agreement.

This agreement is in addition to and not in substitution for any other agreement, contract or other document which GMAC may hold or be given creating a security interest in all or any Vehicles now owned or hereafter acquired by us.

IN WITNESS WHEREOF each of the parties has caused this agreement to be executed by its duly authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

ACCEPTED:

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

BY \_\_\_\_\_  
TITLE \_\_\_\_\_

Witness

BY \_\_\_\_\_  
TITLE \_\_\_\_\_



**EXHIBIT**

**3**

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 2003

\_\_\_\_\_  
also carrying on business as

N/A  
\_\_\_\_\_

- AND -

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

SECURITY AGREEMENT

**SECURITY AGREEMENT**

**TO:** **GENERAL MOTORS ACCEPTANCE CORPORATION  
OF CANADA, LIMITED**  
  
(hereinafter called "GMAC")

**GRANTED BY:**  
  
carrying on business as N/A  
(hereinafter called the "Client")

FOR VALUE RECEIVED, the Client agrees with GMAC as follows:

**1. DEFINED TERMS:**

As used in this Security Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

"Accounts"	All debts, accounts, claims, moneys and choses in action, which are now, or which may at any time hereafter be due or owing to or become due and owing to or owned by the Client and also all securities, mortgages, bills, notes and other documents now held, or owned, or which may be hereafter taken, held or owned by or on behalf of the Client, in respect of the said debts, accounts, claims, moneys and choses in action, or any part thereof, and also all books, documents and papers, recording, evidencing or relating to the said debts, accounts, claims, moneys and choses in action or any part thereof.
"Agreed Rate"	The rate of interest per annum which is designated by GMAC from time to time and under the GMAC Wholesale Plan or as otherwise agreed upon between the Client and GMAC.
"Charged Property"	All of the Accounts, Inventory, Equipment, Intangibles, Leaseholds, Money, Real and Immovable Property, Documents of Title, Proceeds and Undertaking, Property and Assets.

**Page 3****"Costs and Expenses"**

All reasonable costs and expenses, including without limitation, all commissions for collections, all legal fees on a solicitor and his own client basis, all costs of performing any covenant of the Client under this Security Agreement and all liabilities.

**"Documents of Title"**

Any writing now or hereafter owned by the Client that purports to be issued by or addressed to a bailee and purports to cover such goods and chattels in the bailee's possession as are identified or fungible portions of an identified mass, and whether such goods and chattels are Inventory or Equipment within the meaning of this Security Agreement, and which writing in the ordinary course of business is treated as establishing that the person in possession of such writing is entitled to receive, hold and dispose of the said writing is entitled to receive, hold and dispose of the said writing and the goods and chattels it covers, and, further, whether such writing is negotiable in form or otherwise.

**"Equipment"**

All tools, machinery, equipment, plant, furniture, chattels, fixtures, motor vehicles, parts, accessories and other tangible personal property now owned or hereafter acquired by the Client which are not included in the following definition of "Inventory".

**"Intangibles"**

All intangible property, save and except for Accounts above, now owned or hereafter acquired by the Client including, without limitation, all contractual rights, chattel paper, goodwill, patents, trademarks, trade names, copyrights, other industrial property and the undertaking of the Client.

**"Inventory"**

All goods or chattels now or hereafter forming the inventory of the Client, including without limitation, all goods, merchandise, raw material, work in process, motor vehicles, parts, accessories, accessions, finished goods and chattels held for sale, lease or resale, or furnished or to be furnished under contracts for service or sale or on consignment or used or consumed in the business of the Client and goods used in or procured for packing or packaging.

**"Leaseholds, Real and Immovable Property"**

All real and immovable property, both freehold and lease-hold, now owned or hereafter acquired by the Client, together with all buildings, erection, improvements and fixtures situate thereupon or used in connection therewith, including any lease, verbal or written, or any agreement therefor, provided, however, the last day of any term of any such lease, verbal or written, or any agreement therefor, is excepted out of the property charged by this Security Agreement, but the Client shall stand possessed of any such reversion upon trust to assign and dispose thereof as GMAC may direct.

**"Money"**

All present and future Money of the Client, whether authorized or adopted by the Parliament of Canada as part of its currency or any foreign government as part of its currency.

**"Obligations"**

The payment of all present and future indebtedness and liabilities and the performance of all present and future obligations of the Client to GMAC, however incurred, and whether direct or indirect,

absolute or contingent, liquidated or unliquidated, inchoate, due or not due, as principal or surety, for principal or interest or voluntarily or involuntarily incurred and, including without limitation, advances to the Client; letters of credit whether issued or guaranteed or obtained by GMAC on behalf of the Client; whether or not drawn upon; obligations or liabilities of the Client under any present or future guarantee by the Client of the payment or performance or both of the debts; obligations or liabilities of another party to GMAC; obligations or liabilities of the Client to other parties financed or guaranteed by GMAC; all interest payable by the Client to GMAC; all advances which GMAC may be obligated to advance on behalf of the Client; obligations or liabilities of the Client under any agreement entered into with or in favour of GMAC including, without limitation, any guarantee by the Client of a third party, any debt obligation or any other agreement whatsoever, whether it or they be in writing.

**"Permitted  
Encumbrances"**

Any of the following:

- a) liens for taxes, assessments, governmental charges or levies not due at the date hereof;
- b) rights reserved to or vested in any municipality or government or other public authority by the terms of any lease, licence, franchise, grant or permit, or by any statutory provision, to terminate the same or to require annual or periodic payments as a condition to the continuance thereof;
- c) any lien or encumbrance, the validity of which is contested by the Client in good faith, in respect of which there shall have been deposited with GMAC cash in an amount sufficient to satisfy the same, or if GMAC shall otherwise be satisfied that its interests are not prejudiced thereby;
- d) any security given by the Client to GMAC; or

any security given by the Client to any other person with the consent of GMAC;

**"Proceeds"**

All present and future property of the Client in any form derived directly or indirectly from any dealing with the undertaking and property of the Client or proceeds, including property that indemnifies or compensates for property destroyed, expropriated, forfeited, redeemed or damaged.

**"Receiver"**

Any of a receiver, manager, receiver-manager or receiver and manager appointed by GMAC pursuant to subsection 10 (a) of this Security Agreement.

**"Security Agreement"**

This Security Agreement and all schedules hereto, as the same may be from time to time supplemented, amended or otherwise modified in 6

**"Undertaking, Property  
and Assets"**

All of the undertaking, property and assets of the Client of every nature and kind, both present and future, including without

and Assets"

limitation, all its property, real and personal, movable, and immovable, tangible and intangible, legal and equitable, which the Client may be possessed of, or entitled to, or which may be hereafter acquired by this Client and including, without limitation, all Accounts, Documents of Title, Equipment, Intangibles, Money, Inventory and Leaseholds and Real and Immovable Property and Proceeds not effectively subject to the absolute assignment and fixed and specific charges and security interests created by this Security Agreement.

## 2. GRANT OF SECURITY INTEREST:

As a continuing security for the payment and performance of all of the Obligations, the Client hereby sells, assigns, transfers, charges, grants and creates a security interest in the hereinafter described collateral to and in favour of GMAC, as follows:

- a) as and by way of an absolute sale, transfer and assignment all the Accounts and the Proceeds thereof;
- b) as and by way of a fixed and specific charge and the grant of a fixed and specific security interest, all of the Equipment, Inventory, Intangibles, Documents of Title, Money, Leaseholds, Real and Immovable Property and the Proceeds thereof; and
- c) as and by way of a first floating charge and security interest, all of the Undertaking, Property and Assets and the Proceeds thereof.

## 3. ATTACHMENT OF SECURITY INTEREST:

The parties have not agreed to postpone the time for attachment of the security interest. The assignments, charges and security interests created by this Security Agreement shall attach to the Charged Property when the Client has rights in the Charged Property and thereafter the assignment of the Accounts and Proceeds thereof shall be an absolute assignment and security interest and the charge and security interest on all of the Inventory, Equipment, Intangibles, Documents of Title, Money, Leaseholds, Real and Immovable Property and Proceeds thereof shall be a fixed and specific charge and security interest and the charge and security interest on the Undertaking, Property and Assets shall be a floating charge and security interest.

## 4. GENERAL WARRANTIES AND COVENANTS OF THE CLIENT:

The Client hereby warrants and covenants and agrees with GMAC that:

- a) it owns the Charged Property and shall keep the Charged Property free of all encumbrances, other than Permitted Encumbrances, except as otherwise specifically provided herein;
- b) the Charged Property is now or will be located at Trans Canada Highway, PO Box 550, Port-aux-Basques, NL A0M 1C0 and it shall not remove all or any part of the Charged Property from the location or locations listed above without prior written consent of GMAC unless:
  - i) specifically permitted to do so by Section 7 of this Security Agreement,

- ii) the chief value of the particular part of the Charged Property in the business of the Client is the ability to use it at locations other than those set out above and while such part of the Charged Property is at such other locations for the purpose of the business of the Client, or
- iii) the Charged Property is situate at any other place in Newfoundland and Labrador when on lease or consignment to any lessee or consignee from the Client;
- c) it shall keep the Charged Property in good condition and repair;
- d) it shall pay all rents, taxes and assessments lawfully imposed upon the income and profits of the Client, when the same becomes payable;
- e) it shall observe and perform all its obligations under all contracts, leases, licences and other agreements to which it is a party in order to preserve and protect the Charged Property and the income therefrom;
- f) it shall perform all obligations incidental to any trust imposed upon it by statute and shall ensure that any breaches of the said obligations and the consequences of any such breach shall be promptly remedied;
- g) it shall permit a representative of GMAC at any time to inspect the Charged Property and the operations of the Client and for the purpose to enter the Client's premises and any other location where the Charged Property may be situate;
- h) it shall keep proper books of account and records covering all its business and affairs on a current basis and shall permit a representative of GMAC at any time to inspect the client's books of account, records and documents and to make extracts therefrom and to enter any premises where the same may be for such purpose;
- i) it shall deliver to GMAC, in addition to any other requirements under any other agreement with GMAC, within three (3) months after the end of each fiscal year, its audited or unaudited financial statements and if the Client is a corporation, shall furnish annually to GMAC the information which is required to be;
- j) it shall provide GMAC with an aged list of receivables, an aged list of payables, an inventory declaration, financial statements and such other records to be prepared internally at such time or times and in such form satisfactory to GMAC in its sole discretion, and it shall at all other times upon request by GMAC furnish GMAC with such other information or documentation concerning the Charged Property and the Client's affairs and business as GMAC may reasonably request;
- k) whether or not it is in default hereunder, GMAC may notify account debtors of the Client and realize the Accounts and Proceeds at any time and from time to time in such manner as GMAC may in its sole discretion see fit (but GMAC shall not be bound to so notify or realize the same unless it sees fit) and in the event GMAC does notify the account debtors of the Client and realizes the Accounts and Proceeds hereunder GMAC may:
  - i) deduct all Costs and Expenses, incurred by it in such realization including, without limitation, all reasonable commissions for collection and all costs and Expenses of any agent appointed by GMAC to realize the Accounts and Proceeds from the proceeds of any such realization; and,

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- ii) ask for, grant extensions, take and give up securities, accept compositions, give effectual releases and discharges for, demand, commence, continue or defend proceedings and generally deal with the Accounts and Proceeds, in the name of GMAC or in the name of the Client, all in the discretion of GMAC without the consent of or notice to the Client, and GMAC shall not be responsible for any loss or damage which may occur as a consequence of the negligence of any officer, agent or solicitor employed in the collection or realization of the Accounts and Proceeds;
- l) GMAC may, in its sole discretion, perform any covenant of the Client under this Security Agreement which the Client fails to perform and which GMAC is capable of performing, including any covenants the performance of which requires the payment of money, provided that, GMAC shall not be obligated to perform any such covenant on behalf of the Client and no such performance by GMAC shall require GMAC to further perform the Client's covenants nor operate as a derogation from the rights and remedies of GMAC under this Security Agreement;
- m) it shall pay to GMAC on demand all Costs and Expenses of GMAC, its agents, officers and employees incurred with respect to:
  - i) the preparation, execution and filing of all instruments evidencing the Obligations including this Security Agreement;
  - ii) the exercising of any or all of the rights, remedies and powers of GMAC under this Security Agreement;
  - iii) any or all of the taking of, recovering or possessing the Charged Property and any other proceedings taken for the purpose of enforcing the remedies provided herein, including without limitation, the appointment of a Receiver, whether by order of a Court or by private appointment, or otherwise taken in relation to the Charged Property or taken by reason of non-payment of the Obligations hereby secured;
- n) it shall pay interest to GMAC, both before and after demand (if any demand is required), maturity, default and judgement at the Agreed Rate on the outstanding daily balance of all obligations incurred by the Client to GMAC pursuant to this Security Agreement payable on the last day of each month and together with interest at the Agreed Rate on overdue interest payable in the same manner until all of the Obligations are paid and performed in full, provided that all or any part of any overdue interest hereunder, from time to time, may, at the option of GMAC, be kept segregated from the principal or be compounded monthly but, whether kept segregated or compounded, shall continue to bear interest at the Agreed Rate until paid in full.

5. PAYMENT OF OBLIGATIONS:

Except as specifically provided in Section 13, any and all payments made in respect of the Obligations from time to time and all moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied or imputed to such part or parts of the Obligations as GMAC may see fit, and GMAC shall at all times and from time to time have the right to change any such imputations or appropriations as GMAC may see fit.

6. PROHIBITION AGAINST PLEDGING CHARGED PROPERTY:

The Client shall not, without the prior written consent of GMAC, create, assume, have outstanding or suffer to exist, any assignment, charge or other encumbrance on the Charged Property, or any part thereof, ranking or purporting to rank prior to or pari passu with or subsequent to the assignments, charges and security interests created by this Security Agreement, other than for Permitted Encumbrances.

7. RESTRICTIONS ON SALE OR DISPOSAL OF CHARGED PROPERTY:

a) Except as specifically provided in this Security Agreement, the Client shall not without the written consent of GMAC:

- i) sell, lease or otherwise dispose of the Charged Property or any part thereof;
- ii) release, surrender or abandon possession of the Charged property or any part thereof;
- iii) move or transfer the Charged Property or any part thereof from its present location

b) The Client may, at any time, without the consent of GMAC:

- i) lease or sell items of Inventory in the ordinary course of its business so that the purchaser thereof takes title clear of the charges and security interests created by this Security Agreement but if such sale or lease results in Accounts or Proceeds, such Accounts and Proceeds shall be subject to the assignment and security interest created by this Security Agreement;
- ii) sell or otherwise dispose of such part of its Equipment which is not necessary to or useful in connection with its business and undertaking, or which has become worn out or damaged or otherwise unsuitable for its purpose, provided that, it shall substitute therefor, subject to the charges and security interests created by this Security Agreement, free from liens or charges, Equipment of at least equal value so that the security of GMAC hereunder shall not thereby be in any way reduced or impaired. The Client shall annually report to GMAC within three (3) months after the end of each of its fiscal years all Equipment sold, disposed of, replaced or added to by the Client pursuant to this sub-paragraph during each such fiscal year;

c) GMAC may, at its discretion, at any time release from the assignments, charges and security interests contained herein any part or parts of the Charged Property or any other security or any surety for the Obligations either with or without sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the Charged Property or any person from this Security Agreement or from any of the covenants herein contained. Every part of the Charged Property into which the Charged Property is or may hereafter be divided does and shall stand charged with payment of the Obligations and no person shall have the right to require the Obligations to be apportioned. GMAC shall not be accountable to the Client for the value of any property or security released except for any moneys actually received by GMAC.



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8. INSURANCE:

- a) The Client shall insure and keep insured the Charged Property against loss or damage by fire and other usual perils, including the perils covered by the supplemental contract of fire insurance policies and extended coverage and such other perils as GMAC may reasonably require in writing, to the amount of not less than the full insurable value of the Charged Property in lawful money of Canada on such terms in such form, for such periods as written by such companies as may be reasonably satisfactory to GMAC.
- b) The Client shall insure itself against public liability for a reasonable amount considering the nature of the business carried on by the Client.
- c) The loss under all policies of insurance, other than public liability, shall be payable to GMAC and the Client shall arrange to have the entitlement of GMAC to the loss payable record on each policy of insurance. In any event, the production of this Security Agreement shall be sufficient authority for, and the insurer is hereby directed thereupon to pay the loss to GMAC. Certificates or other evidence of all policies of insurance, including renewals, in a form satisfactory to GMAC in its sole discretion, shall, if required by GMAC, be lodged with GMAC in its sole discretion, shall, if required by GMAC, be lodged with GMAC. The Client shall pay all premiums and other sums payable for maintaining such insurance as the same become payable in respect of such insurance.
- d) In the event of loss, GMAC, at its option, may apply the insurance proceeds, against the balance owing by the Client, release the said proceeds to the Client, or arrange for the said proceeds, or any part thereof, to be used to repair, replace or rebuild the damaged property, or any combination of such applications. Where the insurance proceeds are released to the Client, or used for the purpose of repairing, replacing, or rebuilding the damaged property, the receipt of insurance proceeds shall not operate as payment or novation or in any way affect the security herein or any other security for the Obligations.

9. EVENTS OF DEFAULT:

The security hereby constituted shall become enforceable in each and every of the following events:

- a) If the Client makes any default in payment of any of the Obligations;
- b) If the Client makes default in performing or complying with any of the Obligations, including any covenant, undertaking, condition or obligation contained in this Security Agreement or in any other agreement between the Client and GMAC or if any of the warranties contained herein or in any other agreement evidencing the Obligations herein are, or shall become, untrue in any material respect;
- c) If any guarantor of the Client to GMAC shall be in default under its guarantee to GMAC or under any security therefor or if its said guarantee should become terminated without the consent of GMAC;
- d) If any order shall be made or a resolution passed for the winding-up of the Client (if the Client is a corporation), or if a petition shall be filed under the Bankruptcy Act by or against the Client or an authorized assignment made by it or an interim receiver or trustee appointed under the Bankruptcy Act or a receiver, manager, receiver-manager or receiver and manager appointed by or on behalf of a secured creditor of the Client or an

application made under the Companies Creditors Arrangement Act (if the Client is a corporation) or a proposal or arrangement made by the Client to its creditors under the Bankruptcy Act;

- e) If an encumbrancer, whether permitted or otherwise, shall take possession of any part of the charged Property, or if any process of a Court, execution, distress, or analogous process becomes enforceable or is enforced against any of the Charged Property;
- f) If the Client ceases, or threatens to cease, to carry on its business or if the Client commits any act of bankruptcy or if the Client makes an unauthorized sale in bulk of its assets.

10. **ENFORCEMENT:**

At any time after the happening of any event by which the security hereby constituted becomes enforceable, GMAC shall have the following rights, powers and remedies:

- a) to appoint by an instrument any person to be an agent or any person to be a Receiver of the Charged Property and to remove any Receiver so appointed and appoint another in his stead. Any Receiver so appointed pursuant to the provisions of this Security Agreement shall have all of the powers of GMAC hereunder and in addition, shall have the power to carry on the business of the Client;
- b) to make payments to parties having prior charges or encumbrances on properties on which the Client may hold charges or encumbrances and to parties having prior charges or encumbrances on the Charged Property;
- c) to take possession of all or any part of the Charged Property with power to exclude the Client, its agents and servants therefrom;
- d) to preserve and maintain the Charged Property and make such replacements thereof and additions thereto as it shall deem advisable;
- e) to enjoy and exercise all powers necessary to the performance of all functions provided for in this Security Agreement, including, without limitation, the power to purchase on credit, the power to borrow in the Client's name or in the name of GMAC or in the name of the Receiver and to advance its own money to the Client at such rates of interest as it may deem reasonable, provided that, the Receiver shall only borrow money with the prior consent of GMAC;
- f) to sell, lease or dispose of all or any part of the Charged Property whether by public or private sale or lease or otherwise in such manner and on such terms as to it may seem commercially reasonable, including, without limitation, terms that provide time for payment or credit, provided always that:
  - i) it shall not be incumbent on GMAC or the Receiver to sell, lease or dispose of the said property but that it shall be lawful for GMAC or the Receiver peaceably and quietly to take, hold, use, occupy, possess and enjoy the Charged Property without molestation, eviction, hindrance or interruption of the Client, or any other person or persons whomsoever;
  - ii) GMAC or the Receiver may convey, transfer and assign to a purchaser or purchasers the title to any of the Charged Property sold;

- iii) the Client shall be entitled to be credited only with the actual proceeds of any such sale, lease or other disposition when received by GMAC or the Receiver and the actual proceeds of such sale shall mean all amounts when received in cash by GMAC or the Receiver upon the sale, lease or other disposition of all or any part of the Charged Property provided that, such actual proceeds shall be distributed as provided for in paragraph 13 of this Security Agreement; and
- iv) GMAC may be a purchaser of all or any part of the Charged Property at any such sale;
- g) all of the rights and remedies of a secured party under the Personal Property Security Act of Newfoundland and Labrador as amended from time to time;
- h) to dispose of all or any part of the charged Property in the condition in which it was on the date possession of it was taken, or after any commercially reasonable repair, processing or preparation for disposition;
- i) if GMAC or the Receiver believes, on reasonable grounds, that any part of the Charged Property will decline speedily in value, GMAC or the Receiver may sell or otherwise dispose of any part of the Charged property without giving any notice whatsoever;
- j) to demand, commence, continue or defend proceedings in the name of GMAC or of the Receiver or in the name of the Client for the purpose of protecting, seizing, collecting, realizing or obtaining possession or payment of any part of the Charged Property and to give effectual receipts and discharges therefor and to compromise all or any part of the Accounts and Proceeds which may seem bad or doubtful to GMAC or to the Receiver and to give time for payment thereof, with or without security; and,
- k) GMAC and not the Receiver, at the sole option of GMAC, provided that notice is given to the Client in the manner required by the Personal Property Security Act (Newfoundland and Labrador) as amended from time to time, may elect to retain all or any part of the Charged Property in satisfaction of all or part of the Obligations to it of the Client.

11. GENERAL PROVISIONS:

The Client hereby agrees with GMAC that:

- a) it shall pay to GMAC, on demand, the remuneration of the Receiver and all Costs and Expenses properly incurred by the Receiver pursuant to its appointment and the exercise of its powers hereunder;
- b) it shall pay to GMAC, on demand, all amounts of money borrowed or advanced by GMAC or the Receiver pursuant to the powers set out in this Security Agreement and any interest thereon;
- c) GMAC and the Receiver shall not be liable or accountable to the Client or to any other party for any failure to seize, collect, realize, sell, obtain payment of, repair, process or prepare for disposition all or any part of the Charged Property and neither of them shall be bound to institute proceedings for the purpose of seizing, collecting, realizing, obtaining possession or payment of the same for the purpose of preserving any rights of GMAC, the Client or any other party in respect of the same;

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- d) either GMAC or the Receiver may grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, releases any part of the Charged Property to third parties and otherwise deal with the Client, debtors of the Client, sureties and others and with the Charged Property and other security as GMAC or the Receiver may see fit without prejudice to the Obligations or the right of GMAC and the Receiver to hold and realize the Charged Property;
- e) the Receiver shall be deemed to be the agent of the Client for the purpose of:
  - i) carrying on and managing the business and affairs of the Client; and,
  - ii) establishing liability for all of the acts or omissions of the Receiver while acting in any capacity and GMAC shall not be liable for such acts or omissions;

provided that, without restricting the generality of the foregoing, the Client hereby irrevocably authorizes GMAC to give instructions to the Receiver relating to the performance of his duties as set out herein.

12. PROCEEDS HELD IN TRUST:

All Proceeds which are moneys collected or received by the Client shall be received in trust for GMAC and shall be forthwith paid to GMAC.

13. APPLICATION OF PROCEEDS OF DISPOSITIONS OF CHARGED PROPERTY:

Subject to the claims, if any, of the prior secured creditors of the Client, all moneys received by GMAC or by the Receiver pursuant to paragraphs 10 and 12 of this Security Agreement shall be applied as follows:

- a) first, in payment of all costs and expenses incurred by GMAC in the exercise of all or any of the powers granted to it under this Security Agreement, including, without limitation, the Costs and Expenses referred to in Subsection 4(m) of this Security Agreement and in payment of all of the remuneration of the Receiver and all Costs and Expenses properly incurred by the Receiver in the exercise of all or any of the powers granted to it under this Security Agreement, including, without limitation, the remuneration, Costs and Expenses referred to in Subsection 11(a) of this Security Agreement;
- b) Second, in payment of all amounts of money borrowed or advanced by either of GMAC or the Receiver pursuant to the powers set out in this Security Agreement and any interest thereon;
- c) Third, in payment of the Obligations of the Client to GMAC which may be applied by GMAC against such of the indebtedness in such manner as GMAC, in its sole discretion, may determine;
- d) Fourth, in satisfaction of any indebtedness or liability secured by any security interest on the Charged Property subordinate to the assignments, charges and security interests created by this Security Agreement if written demand therefor is received by GMAC or the Receiver before the distribution of the proceeds of dispositions of the Charged Property is completed; and,
- e) Fifth, any surplus shall be paid to the Client.

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The Client shall remain liable to GMAC for any deficiency remaining to be paid on the Obligations and Costs and Expenses if the disposition of the Charged Property fails to satisfy the Obligations, Costs and Expenses.

14. WAIVER BY GMAC:

Any breach by the Client of any of the provisions contained in this Security Agreement or any default by the Client in the observance or performance of any covenant or condition required to be observed or performed by the Client hereunder, may only be waived by GMAC in writing, provided that no such waiver by GMAC shall extend to or be taken in any manner to affect any subsequent breach or default or the rights resulting therefrom any no delay by GMAC shall be deemed to be a waiver by it.

15. RESTRICTION ON CLIENT:

Upon GMAC taking possession of the Charged Property or the appointment of a Receiver, all the powers, functions, rights and privileges of the Client or any officer, director, servant or agent of the Client with respect to the Charged Property, shall be suspended unless specifically continued by the written consent of GMAC.

16. GMAC APPOINTED ATTORNEY:

The Client hereby irrevocably appoints GMAC and any person further designated by GMAC to be the attorney of the Client for and in the name of the Client to execute and do any deeds, documents, transfers, demands, assignments, assurances, consents and things which the Client is obliged to sign, execute or do hereunder and to commence, continue and defend and proceedings authorized to be taken hereunder and generally to use the name of the Client in the exercise of all or any of the powers hereby conferred on GMAC and on any Receiver appointed hereunder.

17. FURTHER ASSURANCES:

The Client shall execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered, such further acts, deeds, mortgages, transfers and assurances as GMAC shall reasonably require for the better assuring, charging, assigning and conferring unto GMAC the Charged Property or property intended to be charged hereunder, or which the Client may hereafter become bound to charge in favour of GMAC, for the purpose of accomplishing and effecting the intention of this Security Agreement.

18. RIGHTS CUMULATIVE:

All rights and remedies of GMAC prescribed in this Security Agreement shall be cumulative and no remedy contained herein is intended to be exclusive but shall be in addition to every other right or remedy contained herein or in any existing or future security instrument entered into between the Client and GMAC or presently or hereafter existing at law or in equity or by statute and the exercise of any particular right or remedy by GMAC at any time shall not preclude the exercise of the same or any other right or remedy by GMAC at any other time or times. The taking of a judgment or judgments with respect to any of the Obligations shall not operate as a merger of any of the covenants contained in this Security Agreement.

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19. SECURITY ADDITIONAL AND CONTINUING:

The security hereby constituted is in addition to and not in substitution for any other security now or hereafter held by GMAC, and this security shall not merge in any other security now or hereafter held by GMAC. The security shall be deemed to be a continuing security for the Obligations until all of the Obligations owing to GMAC by the Client from time to time are paid and performed in full.

20. NO OBLIGATION TO ADVANCE:

Neither the issue nor delivery of this Security Agreement shall obligate GMAC to advance any moneys to the Client.

21. INTERPRETATION:

a) Applicable Law and Jurisdiction:

This Security Agreement and all of the rights and obligations arising herefrom shall be interpreted and applied in accordance with the laws of the Province of Newfoundland and Labrador and the Courts of the Province of Newfoundland and Labrador shall have exclusive jurisdiction to determine all disputes relating to this Security Agreement and all of the rights and obligations created hereby. The Client hereby irrevocably attorns to the jurisdiction of the Courts of the Province of Newfoundland and Labrador.

b) Prohibited Provisions:

In the event that any provision or any part of any provision hereof is deemed to be invalid by reason of the operation of any law or by reason of the interpretation placed thereon by a Court, this Security Agreement shall be construed as not containing such provision or such part of such provision and the invalidity of such provision or such part shall not affect the validity of any other provision or the remainder of such provision hereof, and all other provisions hereof which are otherwise lawful and valid shall remain in full force and effect.

c) Headings:

The headings in this Security Agreement are merely for convenience and shall be without any substantive meaning whatsoever.

d) Context/Construction:

i) Meanings of Certain Words:

In construing this Security Agreement, the terms herein shall have the same meaning as defined in the Personal Property Security Act of Newfoundland and Labrador unless otherwise defined herein or the context otherwise requires. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation, and, where the Client is a partnership, any new partnership resulting from the admission of any new partner or any other change in the Client, including, without limiting the generality of the foregoing, the death or withdrawal of any or all of the partners.

ii) Masculine/Feminine:

Wherever the masculine is used throughout this Security Agreement, the same shall be construed as being the feminine or neuter, or vice versa, where the context so requires.

iii) Singular/Plural:

The words "Client", the personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as the singular or plural as required by and in accordance with the context in which such words are used, depending on whether the Client is one or more individuals, corporations, partnerships or partners in a partnership. In the event there is more than one Client, all covenants, liabilities and obligations entered into or imposed hereunder upon and all waivers and releases herein given by the Client shall be joint and several and the Client hereby waives the benefits of division and discussion.

22. NOTICE:

Any demand or notice to the Client in connection with this Security Agreement shall be deemed to be made and given if either:

- a) mailed by prepaid post addressed to the Client at its last known address, in which case it shall be conclusively deemed to have been made and given to the Client on the third (3rd) business day following the date of such mailing, or
- b) personally served upon the Client or upon any director, officer, servant, employee or partner of the Client, in which case it shall be deemed to have been made and given at the time of such service.

23. BINDING EFFECT:

This Security Agreement and all its provisions shall enure to the benefit of GMAC, its successors and assigns, and shall be binding upon the Client, its heirs, executors, administrators and assigns or successors and assigns, as the case may be.

24. ENTIRE AGREEMENT IN WRITING:

THIS SECURITY AGREEMENT AND THE INSTRUMENTS EVIDENCING THE OBLIGATIONS REPRESENT THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT HERETO AND ALL PRIOR NEGOTIATIONS RELATING TO IT ARE SUPERSEDED. THERE ARE NO COLLATERAL UNDERSTANDINGS BETWEEN THE PARTIES RELATING TO THIS SECURITY AGREEMENT AND THE INSTRUMENTS EVIDENCING THE OBLIGATIONS AND THE RIGHTS OF THE PARTIES THEREUNDER. IN THE EVENT OF ANY CONFLICT BETWEEN THE PROVISIONS OF THIS SECURITY AGREEMENT AND THE PROVISIONS OF ANY OTHER AGREEMENT EVIDENCING THE OBLIGATIONS, THE PROVISIONS OF THIS SECURITY AGREEMENT SHALL GOVERN. THIS SECURITY AGREEMENT MAY ONLY BE AMENDED, MODIFIED OR SUPPLEMENTED BY AN INSTRUMENT IN WRITING SIGNED BY THE PARTIES HERETO. THE CLIENT SHALL NOT ASSIGN ANY INTEREST IT MAY HAVE PURSUANT TO THE PROVISIONS OF THIS SECURITY AGREEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF GMAC.

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25. TIME OF THE ESSENCE:

Time is in all respects of the essence of this Security Agreement.

26. SECURITY AGREEMENT:

It is the intention of the Client and GMAC that this Security Agreement shall be a "Security Agreement" within the meaning of the Personal Property Security Act of Newfoundland and Labrador and shall be subject to the provisions of that Act.

27. RECEIPT OF COPY:

The Client acknowledges having received a copy of this Security Agreement.

IN WITNESS WHEREOF THE Client has executed this Security Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Dealer Name

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

Per \_\_\_\_\_  
c/s  
Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

witness

By \_\_\_\_\_

Title \_\_\_\_\_



DATED the \_\_\_\_\_ day of \_\_\_\_\_, 2003

\_\_\_\_\_  
also carrying on business as

N/A  
\_\_\_\_\_

- AND -

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

SECURITY AGREEMENT

**SECURITY AGREEMENT**

**TO:** **GENERAL MOTORS ACCEPTANCE CORPORATION  
OF CANADA, LIMITED**  
  
(hereinafter called "GMAC")

**GRANTED BY:**  
  
carrying on business as N/A  
(hereinafter called the "Client")

**FOR VALUE RECEIVED, the Client agrees with GMAC as follows:**

**1. DEFINED TERMS:**

**As used in this Security Agreement, the following terms shall have the following meanings, unless the context otherwise requires:**

<b>"Accounts"</b>	All debts, accounts, claims, moneys and choses in action, which are now, or which may at any time hereafter be due or owing to or become due and owing to or owned by the Client and also all securities, mortgages, bills, notes and other documents now held, or owned, or which may be hereafter taken, held or owned by or on behalf of the Client, in respect of the said debts, accounts, claims, moneys and choses in action, or any part thereof, and also all books, documents and papers, recording, evidencing or relating to the said debts, accounts, claims, moneys and choses in action or any part thereof.
<b>"Agreed Rate"</b>	The rate of interest per annum which is designated by GMAC from time to time and under the GMAC Wholesale Plan or as otherwise agreed upon between the Client and GMAC.
<b>"Charged Property"</b>	All of the Accounts, Inventory, Equipment, Intangibles, Leaseholds, Money, Real and Immovable Property, Documents of Title, Proceeds and Undertaking, Property and Assets.

**Page 3****"Costs and Expenses"**

All reasonable costs and expenses, including without limitation, all commissions for collections, all legal fees on a solicitor and his own client basis, all costs of performing any covenant of the Client under this Security Agreement and all liabilities.

**"Documents of Title"**

Any writing now or hereafter owned by the Client that purports to be issued by or addressed to a bailee and purports to cover such goods and chattels in the bailee's possession as are identified or fungible portions of an identified mass, and whether such goods and chattels are Inventory or Equipment within the meaning of this Security Agreement, and which writing in the ordinary course of business is treated as establishing that the person in possession of such writing is entitled to receive, hold and dispose of the said writing and the goods and chattels it covers, and, further, whether such writing is negotiable in form or otherwise.

**"Equipment"**

All tools, machinery, equipment, plant, furniture, chattels, fixtures, motor vehicles, parts, accessories and other tangible personal property now owned or hereafter acquired by the Client which are not included in the following definition of "Inventory".

**"Intangibles"**

All intangible property, save and except for Accounts above, now owned or hereafter acquired by the Client including, without limitation, all contractual rights, chattel paper, goodwill, patents, trademarks, trade names, copyrights, other industrial property and the undertaking of the Client.

**"Inventory"**

All goods or chattels now or hereafter forming the inventory of the Client, including without limitation, all goods, merchandise, raw material, work in process, motor vehicles, parts, accessories, accessions, finished goods and chattels held for sale, lease or resale, or furnished or to be furnished under contracts for service or sale or on consignment or used or consumed in the business of the Client and goods used in or procured for packing or packaging.

**"Leaseholds, Real and Immovable Property"**

All real and immovable property, both freehold and lease-hold, now owned or hereafter acquired by the Client, together with all buildings, erection, improvements and fixtures situate thereupon or used in connection therewith, including any lease, verbal or written, or any agreement therefor, provided, however, the last day of any term of any such lease, verbal or written, or any agreement therefor, is excepted out of the property charged by this Security Agreement, but the Client shall stand possessed of any such reversion upon trust to assign and dispose thereof as GMAC may direct.

**"Money"**

All present and future Money of the Client, whether authorized or adopted by the Parliament of Canada as part of its currency or any foreign government as part of its currency.

**"Obligations"**

The payment of all present and future indebtedness and liabilities and the performance of all present and future obligations of the Client to GMAC, however incurred, and whether direct or indirect,

absolute or contingent, liquidated or unliquidated, inchoate, due or not due, as principal or surety, for principal or interest or voluntarily or involuntarily incurred and, including without limitation, advances to the Client; letters of credit whether issued or guaranteed or obtained by GMAC on behalf of the Client; whether or not drawn upon; obligations or liabilities of the Client under any present or future guarantee by the Client of the payment or performance or both of the debts; obligations or liabilities of another party to GMAC; obligations or liabilities of the Client to other parties financed or guaranteed by GMAC; all interest payable by the Client to GMAC; all advances which GMAC may be obligated to advance on behalf of the Client; obligations or liabilities of the Client under any agreement entered into with or in favour of GMAC including, without limitation, any guarantee by the Client of a third party, any debt obligation or any other agreement whatsoever, whether it or they be in writing.

**"Permitted  
Encumbrances"**

**Any of the following:**

- a) liens for taxes, assessments, governmental charges or levies not due at the date hereof;
- b) rights reserved to or vested in any municipality or government or other public authority by the terms of any lease, licence, franchise, grant or permit, or by any statutory provision, to terminate the same or to require annual or periodic payments as a condition to the continuance thereof;
- c) any lien or encumbrance, the validity of which is contested by the Client in good faith, in respect of which there shall have been deposited with GMAC cash in an amount sufficient to satisfy the same, or if GMAC shall otherwise be satisfied that its interests are not prejudiced thereby;
- d) any security given by the Client to GMAC; or

any security given by the Client to any other person with the consent of GMAC;

**"Proceeds"**

All present and future property of the Client in any form derived directly or indirectly from any dealing with the undertaking and property of the Client or proceeds, including property that indemnifies or compensates for property destroyed, expropriated, forfeited, redeemed or damaged.

**"Receiver"**

Any of a receiver, manager, receiver-manager or receiver and manager appointed by GMAC pursuant to subsection 10 (a) of this Security Agreement.

**"Security Agreement"**

This Security Agreement and all schedules hereto, as the same may be from time to time supplemented, amended or otherwise modified in 6

**"Undertaking, Property  
and Assets"**

All of the undertaking, property and assets of the Client of every nature and kind, both present and future, including without

and Assets"

limitation, all its property, real and personal, movable, and immovable, tangible and intangible, legal and equitable, which the Client may be possessed of, or entitled to, or which may be hereafter acquired by this Client and including, without limitation, all Accounts, Documents of Title, Equipment, Intangibles, Money, Inventory and Leaseholds and Real and Immovable Property and Proceeds not effectively subject to the absolute assignment and fixed and specific charges and security interests created by this Security Agreement.

2. GRANT OF SECURITY INTEREST:

As a continuing security for the payment and performance of all of the Obligations, the Client hereby sells, assigns, transfers, charges, grants and creates a security interest in the hereinafter described collateral to and in favour of GMAC, as follows:

- a) as and by way of an absolute sale, transfer and assignment all the Accounts and the Proceeds thereof;
- b) as and by way of a fixed and specific charge and the grant of a fixed and specific security interest, all of the Equipment, Inventory, Intangibles, Documents of Title, Money, Leaseholds, Real and Immovable Property and the Proceeds thereof; and
- c) as and by way of a first floating charge and security interest, all of the Undertaking, Property and Assets and the Proceeds thereof.

3. ATTACHMENT OF SECURITY INTEREST:

The parties have not agreed to postpone the time for attachment of the security interest. The assignments, charges and security interests created by this Security Agreement shall attach to the Charged Property when the Client has rights in the Charged Property and thereafter the assignment of the Accounts and Proceeds thereof shall be an absolute assignment and security interest and the charge and security interest on all of the Inventory, Equipment, Intangibles, Documents of Title, Money, Leaseholds, Real and Immovable Property and Proceeds thereof shall be a fixed and specific charge and security interest and the charge and security interest on the Undertaking, Property and Assets shall be a floating charge and security interest.

4. GENERAL WARRANTIES AND COVENANTS OF THE CLIENT:

The Client hereby warrants and covenants and agrees with GMAC that:

- a) it owns the Charged Property and shall keep the Charged Property free of all encumbrances, other than Permitted Encumbrances, except as otherwise specifically provided herein;
- b) the Charged Property is now or will be located at Trans Canada Highway, PO Box 550, Port-aux-Basques, NL A0M 1C0 and it shall not remove all or any part of the Charged Property from the location or locations listed above without prior written consent of GMAC unless:
  - i) specifically permitted to do so by Section 7 of this Security Agreement,

- ii) the chief value of the particular part of the Charged Property in the business of the Client is the ability to use it at locations other than those set out above and while such part of the Charged Property is at such other locations for the purpose of the business of the Client, or
- iii) the Charged Property is situate at any other place in Newfoundland and Labrador when on lease or consignment to any lessee or consignee from the Client;
- c) it shall keep the Charged Property in good condition and repair;
- d) it shall pay all rents, taxes and assessments lawfully imposed upon the income and profits of the Client, when the same becomes payable;
- e) it shall observe and perform all its obligations under all contracts, leases, licences and other agreements to which it is a party in order to preserve and protect the Charged Property and the income therefrom;
- f) it shall perform all obligations incidental to any trust imposed upon it by statute and shall ensure that any breaches of the said obligations and the consequences of any such breach shall be promptly remedied;
- g) it shall permit a representative of GMAC at any time to inspect the Charged Property and the operations of the Client and for the purpose to enter the Client's premises and any other location where the Charged Property may be situate;
- h) it shall keep proper books of account and records covering all its business and affairs on a current basis and shall permit a representative of GMAC at any time to inspect the client's books of account, records and documents and to make extracts therefrom and to enter any premises where the same may be for such purpose;
- i) it shall deliver to GMAC, in addition to any other requirements under any other agreement with GMAC, within three (3) months after the end of each fiscal year, its audited or unaudited financial statements and if the Client is a corporation, shall furnish annually to GMAC the information which is required to be;
- j) it shall provide GMAC with an aged list of receivables, an aged list of payables, an inventory declaration, financial statements and such other records to be prepared internally at such time or times and in such form satisfactory to GMAC in its sole discretion, and it shall at all other times upon request by GMAC furnish GMAC with such other information or documentation concerning the Charged Property and the Client's affairs and business as GMAC may reasonably request;
- k) whether or not it is in default hereunder, GMAC may notify account debtors of the Client and realize the Accounts and Proceeds at any time and from time to time in such manner as GMAC may in its sole discretion see fit (but GMAC shall not be bound to so notify or realize the same unless it sees fit) and in the event GMAC does notify the account debtors of the Client and realizes the Accounts and Proceeds hereunder GMAC may:
  - i) deduct all Costs and Expenses, incurred by it in such realization including, without limitation, all reasonable commissions for collection and all costs and Expenses of any agent appointed by GMAC to realize the Accounts and Proceeds from the proceeds of any such realization; and,

- ii) ask for, grant extensions, take and give up securities, accept compositions, give effectual releases and discharges for, demand, commence, continue or defend proceedings and generally deal with the Accounts and Proceeds, in the name of GMAC or in the name of the Client, all in the discretion of GMAC without the consent of or notice to the Client, and GMAC shall not be responsible for any loss or damage which may occur as a consequence of the negligence of any officer, agent or solicitor employed in the collection or realization of the Accounts and Proceeds;
- l) GMAC may, in its sole discretion, perform any covenant of the Client under this Security Agreement which the Client fails to perform and which GMAC is capable of performing, including any covenants the performance of which requires the payment of money, provided that, GMAC shall not be obligated to perform any such covenant on behalf of the Client and no such performance by GMAC shall require GMAC to further perform the Client's covenants nor operate as a derogation from the rights and remedies of GMAC under this Security Agreement;
- m) it shall pay to GMAC on demand all Costs and Expenses of GMAC, its agents, officers and employees incurred with respect to:
  - i) the preparation, execution and filing of all instruments evidencing the Obligations including this Security Agreement;
  - ii) the exercising of any or all of the rights, remedies and powers of GMAC under this Security Agreement;
  - iii) any or all of the taking of, recovering or possessing the Charged Property and any other proceedings taken for the purpose of enforcing the remedies provided herein, including without limitation, the appointment of a Receiver, whether by order of a Court or by private appointment, or otherwise taken in relation to the Charged Property or taken by reason of non-payment of the Obligations hereby secured;
- n) it shall pay interest to GMAC, both before and after demand (if any demand is required), maturity, default and judgement at the Agreed Rate on the outstanding daily balance of all obligations incurred by the Client to GMAC pursuant to this Security Agreement payable on the last day of each month and together with interest at the Agreed Rate on overdue interest payable in the same manner until all of the Obligations are paid and performed in full, provided that all or any part of any overdue interest hereunder, from time to time, may, at the option of GMAC, be kept segregated from the principal or be compounded monthly but, whether kept segregated or compounded, shall continue to bear interest at the Agreed Rate until paid in full.

5. PAYMENT OF OBLIGATIONS:

Except as specifically provided in Section 13, any and all payments made in respect of the Obligations from time to time and all moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied or imputed to such part or parts of the Obligations as GMAC may see fit, and GMAC shall at all times and from time to time have the right to change any such imputations or appropriations as GMAC may see fit.

6. PROHIBITION AGAINST PLEDGING CHARGED PROPERTY:

The Client shall not, without the prior written consent of GMAC, create, assume, have outstanding or suffer to exist, any assignment, charge or other encumbrance on the Charged Property, or any part thereof, ranking or purporting to rank prior to or pari passu with or subsequent to the assignments, charges and security interests created by this Security Agreement, other than for Permitted Encumbrances.

7. RESTRICTIONS ON SALE OR DISPOSAL OF CHARGED PROPERTY:

- a) Except as specifically provided in this Security Agreement, the Client shall not without the written consent of GMAC:
  - i) sell, lease or otherwise dispose of the Charged Property or any part thereof;
  - ii) release, surrender or abandon possession of the Charged property or any part thereof;
  - iii) move or transfer the Charged Property or any part thereof from its present location
- b) The Client may, at any time, without the consent of GMAC:
  - i) lease or sell items of Inventory in the ordinary course of its business so that the purchaser thereof takes title clear of the charges and security interests created by this Security Agreement but if such sale or lease results in Accounts or Proceeds, such Accounts and Proceeds shall be subject to the assignment and security interest created by this Security Agreement;
  - ii) sell or otherwise dispose of such part of its Equipment which is not necessary to or useful in connection with its business and undertaking, or which has become worn out or damaged or otherwise unsuitable for its purpose, provided that, it shall substitute therefor, subject to the charges and security interests created by this Security Agreement, free from liens or charges, Equipment of at least equal value so that the security of GMAC hereunder shall not thereby be in any way reduced or impaired. The Client shall annually report to GMAC within three (3) months after the end of each of its fiscal years all Equipment sold, disposed of, replaced or added to by the Client pursuant to this sub-paragraph during each such fiscal year;
- c) GMAC may, at its discretion, at any time release from the assignments, charges and security interests contained herein any part or parts of the Charged Property or any other security or any surety for the Obligations either with or without sufficient consideration therefor, without responsibility therefor, and without thereby releasing any other part of the Charged Property or any person from this Security Agreement or from any of the covenants herein contained. Every part of the Charged Property into which the Charged Property is or may hereafter be divided does and shall stand charged with payment of the Obligations and no person shall have the right to require the Obligations to be apportioned. GMAC shall not be accountable to the Client for the value of any property or security released except for any moneys actually received by GMAC.



8. INSURANCE:

- a) The Client shall insure and keep insured the Charged Property against loss or damage by fire and other usual perils, including the perils covered by the supplemental contract of fire insurance policies and extended coverage and such other perils as GMAC may reasonably require in writing, to the amount of not less than the full insurable value of the Charged Property in lawful money of Canada on such terms in such form, for such periods as written by such companies as may be reasonably satisfactory to GMAC.
- b) The Client shall insure itself against public liability for a reasonable amount considering the nature of the business carried on by the Client.
- c) The loss under all policies of insurance, other than public liability, shall be payable to GMAC and the Client shall arrange to have the entitlement of GMAC to the loss payable record on each policy of insurance. In any event, the production of this Security Agreement shall be sufficient authority for, and the insurer is hereby directed thereupon to pay the loss to GMAC. Certificates or other evidence of all policies of insurance, including renewals, in a form satisfactory to GMAC in its sole discretion, shall, if required by GMAC, be lodged with GMAC in its sole discretion, shall, if required by GMAC, be lodged with GMAC. The Client shall pay all premiums and other sums payable for maintaining such insurance as the same become payable in respect of such insurance.
- d) In the event of loss, GMAC, at its option, may apply the insurance proceeds, against the balance owing by the Client, release the said proceeds to the Client, or arrange for the said proceeds, or any part thereof, to be used to repair, replace or rebuild the damaged property, or any combination of such applications. Where the insurance proceeds are released to the Client, or used for the purpose of repairing, replacing, or rebuilding the damaged property, the receipt of insurance proceeds shall not operate as payment or novation or in any way affect the security herein or any other security for the Obligations.

9. EVENTS OF DEFAULT:

The security hereby constituted shall become enforceable in each and every of the following events:

- a) If the Client makes any default in payment of any of the Obligations;
- b) If the Client makes default in performing or complying with any of the Obligations, including any covenant, undertaking, condition or obligation contained in this Security Agreement or in any other agreement between the Client and GMAC or if any of the warranties contained herein or in any other agreement evidencing the Obligations herein are, or shall become, untrue in any material respect;
- c) If any guarantor of the Client to GMAC shall be in default under its guarantee to GMAC or under any security therefor or if its said guarantee should become terminated without the consent of GMAC;
- d) If any order shall be made or a resolution passed for the winding-up of the Client (if the Client is a corporation), or if a petition shall be filed under the Bankruptcy Act by or against the Client or an authorized assignment made by it or an interim receiver or trustee appointed under the Bankruptcy Act or a receiver, manager, receiver-manager or receiver and manager appointed by or on behalf of a secured creditor of the Client or an

application made under the Companies Creditors Arrangement Act (if the Client is a corporation) or a proposal or arrangement made by the Client to its creditors under the Bankruptcy Act;

- e) If an encumbrancer, whether permitted or otherwise, shall take possession of any part of the charged Property, or if any process of a Court, execution, distress, or analogous process becomes enforceable or is enforced against any of the Charged Property;
- f) If the Client ceases, or threatens to cease, to carry on its business or if the Client commits any act of bankruptcy or if the Client makes an unauthorized sale in bulk of its assets.

10. **ENFORCEMENT:**

At any time after the happening of any event by which the security hereby constituted becomes enforceable, GMAC shall have the following rights, powers and remedies:

- a) to appoint by an instrument any person to be an agent or any person to be a Receiver of the Charged Property and to remove any Receiver so appointed and appoint another in his stead. Any Receiver so appointed pursuant to the provisions of this Security Agreement shall have all of the powers of GMAC hereunder and in addition, shall have the power to carry on the business of the Client;
- b) to make payments to parties having prior charges or encumbrances on properties on which the Client may hold charges or encumbrances and to parties having prior charges or encumbrances on the Charged Property;
- c) to take possession of all or any part of the Charged Property with power to exclude the Client, its agents and servants therefrom;
- d) to preserve and maintain the Charged Property and make such replacements thereof and additions thereto as it shall deem advisable;
- e) to enjoy and exercise all powers necessary to the performance of all functions provided for in this Security Agreement, including, without limitation, the power to purchase on credit, the power to borrow in the Client's name or in the name of GMAC or in the name of the Receiver and to advance its own money to the Client at such rates of interest as it may deem reasonable, provided that, the Receiver shall only borrow money with the prior consent of GMAC;
- f) to sell, lease or dispose of all or any part of the Charged Property whether by public or private sale or lease or otherwise in such manner and on such terms as to it may seem commercially reasonable, including, without limitation, terms that provide time for payment or credit, provided always that:
  - i) it shall not be incumbent on GMAC or the Receiver to sell, lease or dispose of the said property but that it shall be lawful for GMAC or the Receiver peaceably and quietly to take, hold, use, occupy, possess and enjoy the Charged Property without molestation, eviction, hindrance or interruption of the Client, or any other person or persons whomsoever;
  - ii) GMAC or the Receiver may convey, transfer and assign to a purchaser or purchasers the title to any of the Charged Property sold;

- iii) the Client shall be entitled to be credited only with the actual proceeds of any such sale, lease or other disposition when received by GMAC or the Receiver and the actual proceeds of such sale shall mean all amounts when received in cash by GMAC or the Receiver upon the sale, lease or other disposition of all or any part of the Charged Property provided that, such actual proceeds shall be distributed as provided for in paragraph 13 of this Security Agreement; and
- iv) GMAC may be a purchaser of all or any part of the Charged Property at any such sale;
- g) all of the rights and remedies of a secured party under the Personal Property Security Act of Newfoundland and Labrador as amended from time to time;
- h) to dispose of all or any part of the charged Property in the condition in which it was on the date possession of it was taken, or after any commercially reasonable repair, processing or preparation for disposition;
- i) if GMAC or the Receiver believes, on reasonable grounds, that any part of the Charged Property will decline speedily in value, GMAC or the Receiver may sell or otherwise dispose of any part of the Charged property without giving any notice whatsoever;
- j) to demand, commence, continue or defend proceedings in the name of GMAC or of the Receiver or in the name of the Client for the purpose of protecting, seizing, collecting, realizing or obtaining possession or payment of any part of the Charged Property and to give effectual receipts and discharges therefor and to compromise all or any part of the Accounts and Proceeds which may seem bad or doubtful to GMAC or to the Receiver and to give time for payment thereof, with or without security; and,
- k) GMAC and not the Receiver, at the sole option of GMAC, provided that notice is given to the Client in the manner required by the Personal Property Security Act (Newfoundland and Labrador) as amended from time to time, may elect to retain all or any part of the Charged Property in satisfaction of all or part of the Obligations to it of the Client.

11. GENERAL PROVISIONS:

The Client hereby agrees with GMAC that:

- a) it shall pay to GMAC, on demand, the remuneration of the Receiver and all Costs and Expenses properly incurred by the Receiver pursuant to its appointment and the exercise of its powers hereunder;
- b) it shall pay to GMAC, on demand, all amounts of money borrowed or advanced by GMAC or the Receiver pursuant to the powers set out in this Security Agreement and any interest thereon;
- c) GMAC and the Receiver shall not be liable or accountable to the Client or to any other party for any failure to seize, collect, realize, sell, obtain payment of, repair, process or prepare for disposition all or any part of the Charged Property and neither of them shall be bound to institute proceedings for the purpose of seizing, collecting, realizing, obtaining possession or payment of the same for the purpose of preserving any rights of GMAC, the Client or any other party in respect of the same;

- d) either GMAC or the Receiver may grant extensions of time and other indulgences, take and give up securities, accept compositions, grant releases and discharges, releases any part of the Charged Property to third parties and otherwise deal with the Client, debtors of the Client, sureties and others and with the Charged Property and other security as GMAC or the Receiver may see fit without prejudice to the Obligations or the right of GMAC and the Receiver to hold and realize the Charged Property;
- e) the Receiver shall be deemed to be the agent of the Client for the purpose of:
  - i) carrying on and managing the business and affairs of the Client; and,
  - ii) establishing liability for all of the acts or omissions of the Receiver while acting in any capacity and GMAC shall not be liable for such acts or omissions;

provided that, without restricting the generality of the foregoing, the Client hereby irrevocably authorizes GMAC to give instructions to the Receiver relating to the performance of his duties as set out herein.

12. PROCEEDS HELD IN TRUST:

All Proceeds which are moneys collected or received by the Client shall be received in trust for GMAC and shall be forthwith paid to GMAC.

13. APPLICATION OF PROCEEDS OF DISPOSITIONS OF CHARGED PROPERTY:

Subject to the claims, if any, of the prior secured creditors of the Client, all moneys received by GMAC or by the Receiver pursuant to paragraphs 10 and 12 of this Security Agreement shall be applied as follows:

- a) first, in payment of all costs and expenses incurred by GMAC in the exercise of all or any of the powers granted to it under this Security Agreement, including, without limitation, the Costs and Expenses referred to in Subsection 4(m) of this Security Agreement and in payment of all of the remuneration of the Receiver and all Costs and Expenses properly incurred by the Receiver in the exercise of all or any of the powers granted to it under this Security Agreement, including, without limitation, the remuneration, Costs and Expenses referred to in Subsection 11(a) of this Security Agreement;
- b) Second, in payment of all amounts of money borrowed or advanced by either of GMAC or the Receiver pursuant to the powers set out in this Security Agreement and any interest thereon;
- c) Third, in payment of the Obligations of the Client to GMAC which may be applied by GMAC against such of the indebtedness in such manner as GMAC, in its sole discretion, may determine;
- d) Fourth, in satisfaction of any indebtedness or liability secured by any security interest on the Charged Property subordinate to the assignments, charges and security interests created by this Security Agreement if written demand therefor is received by GMAC or the Receiver before the distribution of the proceeds of dispositions of the Charged Property is completed; and,
- e) Fifth, any surplus shall be paid to the Client.

The Client shall remain liable to GMAC for any deficiency remaining to be paid on the Obligations and Costs and Expenses if the disposition of the Charged Property fails to satisfy the Obligations, Costs and Expenses.

14. WAIVER BY GMAC:

Any breach by the Client of any of the provisions contained in this Security Agreement or any default by the Client in the observance or performance of any covenant or condition required to be observed or performed by the Client hereunder, may only be waived by GMAC in writing, provided that no such waiver by GMAC shall extend to or be taken in any manner to affect any subsequent breach or default or the rights resulting therefrom any no delay by GMAC shall be deemed to be a waiver by it.

15. RESTRICTION ON CLIENT:

Upon GMAC taking possession of the Charged Property or the appointment of a Receiver, all the powers, functions, rights and privileges of the Client or any officer, director, servant or agent of the Client with respect to the Charged Property, shall be suspended unless specifically continued by the written consent of GMAC.

16. GMAC APPOINTED ATTORNEY:

The Client hereby irrevocably appoints GMAC and any person further designated by GMAC to be the attorney of the Client for and in the name of the Client to execute and do any deeds, documents, transfers, demands, assignments, assurances, consents and things which the Client is obliged to sign, execute or do hereunder and to commence, continue and defend and proceedings authorized to be taken hereunder and generally to use the name of the Client in the exercise of all or any of the powers hereby conferred on GMAC and on any Receiver appointed hereunder.

17. FURTHER ASSURANCES:

The Client shall execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered, such further acts, deeds, mortgages, transfers and assurances as GMAC shall reasonably require for the better assuring, charging, assigning and conferring unto GMAC the Charged Property or property intended to be charged hereunder, or which the Client may hereafter become bound to charge in favour of GMAC, for the purpose of accomplishing and effecting the intention of this Security Agreement.

18. RIGHTS CUMULATIVE:

All rights and remedies of GMAC prescribed in this Security Agreement shall be cumulative and no remedy contained herein is intended to be exclusive but shall be in addition to every other right or remedy contained herein or in any existing or future security instrument entered into between the Client and GMAC or presently or hereafter existing at law or in equity or by statute and the exercise of any particular right or remedy by GMAC at any time shall not preclude the exercise of the same or any other right or remedy by GMAC at any other time or times. The taking of a judgment or judgments with respect to any of the Obligations shall not operate as a merger of any of the covenants contained in this Security Agreement.

**19. SECURITY ADDITIONAL AND CONTINUING:**

The security hereby constituted is in addition to and not in substitution for any other security now or hereafter held by GMAC, and this security shall not merge in any other security now or hereafter held by GMAC. The security shall be deemed to be a continuing security for the Obligations until all of the Obligations owing to GMAC by the Client from time to time are paid and performed in full.

**20. NO OBLIGATION TO ADVANCE:**

Neither the issue nor delivery of this Security Agreement shall obligate GMAC to advance any moneys to the Client.

**21. INTERPRETATION:****a) Applicable Law and Jurisdiction:**

This Security Agreement and all of the rights and obligations arising herefrom shall be interpreted and applied in accordance with the laws of the Province of Newfoundland and Labrador and the Courts of the Province of Newfoundland and Labrador shall have exclusive jurisdiction to determine all disputes relating to this Security Agreement and all of the rights and obligations created hereby. The Client hereby irrevocably attorns to the jurisdiction of the Courts of the Province of Newfoundland and Labrador.

**b) Prohibited Provisions:**

In the event that any provision or any part of any provision hereof is deemed to be invalid by reason of the operation of any law or by reason of the interpretation placed thereon by a Court, this Security Agreement shall be construed as not containing such provision or such part of such provision and the invalidity of such provision or such part shall not affect the validity of any other provision or the remainder of such provision hereof, and all other provisions hereof which are otherwise lawful and valid shall remain in full force and effect.

**c) Headings:**

The headings in this Security Agreement are merely for convenience and shall be without any substantive meaning whatsoever.

**d) Context/Construction:****i) Meanings of Certain Words:**

In construing this Security Agreement, the terms herein shall have the same meaning as defined in the Personal Property Security Act of Newfoundland and Labrador unless otherwise defined herein or the context otherwise requires. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation, and, where the Client is a partnership, any new partnership resulting from the admission of any new partner or any other change in the Client, including, without limiting the generality of the foregoing, the death or withdrawal of any or all of the partners.

ii) Masculine/Feminine:

Wherever the masculine is used throughout this Security Agreement, the same shall be construed as being the feminine or neuter, or vice versa, where the context so requires.

iii) Singular/Plural:

The words "Client", the personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as the singular or plural as required by and in accordance with the context in which such words are used, depending on whether the Client is one or more individuals, corporations, partnerships or partners in a partnership. In the event there is more than one Client, all covenants, liabilities and obligations entered into or imposed hereunder upon and all waivers and releases herein given by the Client shall be joint and several and the Client hereby waives the benefits of division and discussion.

22. NOTICE:

Any demand or notice to the Client in connection with this Security Agreement shall be deemed to be made and given if either:

- a) mailed by prepaid post addressed to the Client at its last known address, in which case it shall be conclusively deemed to have been made and given to the Client on the third (3rd) business day following the date of such mailing, or
- b) personally served upon the Client or upon any director, officer, servant, employee or partner of the Client, in which case it shall be deemed to have been made and given at the time of such service.

23. BINDING EFFECT:

This Security Agreement and all its provisions shall enure to the benefit of GMAC, its successors and assigns, and shall be binding upon the Client, its heirs, executors, administrators and assigns or successors and assigns, as the case may be.

24. ENTIRE AGREEMENT IN WRITING:

THIS SECURITY AGREEMENT AND THE INSTRUMENTS EVIDENCING THE OBLIGATIONS REPRESENT THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT HERETO AND ALL PRIOR NEGOTIATIONS RELATING TO IT ARE SUPERSEDED. THERE ARE NO COLLATERAL UNDERSTANDINGS BETWEEN THE PARTIES RELATING TO THIS SECURITY AGREEMENT AND THE INSTRUMENTS EVIDENCING THE OBLIGATIONS AND THE RIGHTS OF THE PARTIES THEREUNDER. IN THE EVENT OF ANY CONFLICT BETWEEN THE PROVISIONS OF THIS SECURITY AGREEMENT AND THE PROVISIONS OF ANY OTHER AGREEMENT EVIDENCING THE OBLIGATIONS, THE PROVISIONS OF THIS SECURITY AGREEMENT SHALL GOVERN. THIS SECURITY AGREEMENT MAY ONLY BE AMENDED, MODIFIED OR SUPPLEMENTED BY AN INSTRUMENT IN WRITING SIGNED BY THE PARTIES HERETO. THE CLIENT SHALL NOT ASSIGN ANY INTEREST IT MAY HAVE PURSUANT TO THE PROVISIONS OF THIS SECURITY AGREEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF GMAC.

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25. TIME OF THE ESSENCE:

Time is in all respects of the essence of this Security Agreement.

26. SECURITY AGREEMENT:

It is the intention of the Client and GMAC that this Security Agreement shall be a "Security Agreement" within the meaning of the Personal Property Security Act of Newfoundland and Labrador and shall be subject to the provisions of that Act.

27. RECEIPT OF COPY:

The Client acknowledges having received a copy of this Security Agreement.

IN WITNESS WHEREOF THE Client has executed this Security Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Dealer Name

GENERAL MOTORS ACCEPTANCE  
CORPORATION OF CANADA, LIMITED

Per: \_\_\_\_\_  
c/s  
Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

witness

By \_\_\_\_\_

Title \_\_\_\_\_