

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person:	John Deere Credit Inc.
Date of Document:	January 2003
Summary of Order/Relief Sought or Statement of Purpose in filing:	Interlocutory Application of John Deere Credit Inc. ("JDCI") for payment to JDCI of the proceeds from the sale by the Receiver of the equipment referenced in the Application
Court Sub-File Number:	7: 37

2002 01T 0352

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

IN THE MATTER OF

a Court ordered Receivership
of Hickman Equipment (1985) Limited
("HEL") pursuant to Rule 25
of the *Rules of the Supreme Court, 1986*
under the *Judicature Act*, RSNL 1990,
c. J-4, as amended

AND IN THE MATTER OF

the *Bankruptcy and Insolvency Act*,
RSC 1985, c. B-3, as amended (the "BIA")

INTERLOCUTORY APPLICATION (INTER PARTES)
OF JOHN DEERE CREDIT INC.

The Interlocutory Application (Inter Partes) of JDCI says as follows:

1. By a Receiving Order dated March 13, 2002 and filed March 14, 2002 (the "Receiving Order") HEL was adjudged bankrupt and PricewaterhouseCoopers Inc. ("PWC") was appointed Trustee in bankruptcy in accordance with the BIA.
2. By a Receivership Order dated March 13, 2002 and filed March 14, 2002 (the "Receivership Order") PWC was appointed receiver without security "... of all the property, assets, entitlements and undertaking (the "Assets") of Hickman Equipment wheresoever situate including without limitation all property assets


and undertaking comprised in the term "Property" as such term is defined in the Initial Order."

3. In light of the above, and by virtue of the Receiving Order, JDCI filed a proof of claim in the Bankruptcy of Hickman dated April 17, 2002.
4. PWC, in accordance with an Order of this Honourable Court dated May 14, 2002, commenced and completed the liquidation of substantially all of the Assets of HEL by auction.
5. By Final Determination dated November 27, 2002 (the "Final Determination"), PWC has allowed, *inter alia*, the claims of JDCI in respect of certain units, including, without limitation, the units listed at Schedule "A" to this Application (the "JDCI Units"). PWC has in the Final Determination concluded that the debts noted in Schedule "A" in respect of the JDCI Units are owing from HEL to JDCI, value has been given by JDCI to HEL in respect of the JDCI Units, and JDCI has a valid and perfected security interest in the JDCI Units.
6. JDCI has been advised by PWC that PWC has received as proceeds of the liquidation of each of the JDCI Units, the amounts set out in the 6th column of Schedule "A" to this Application (the "Proceeds").
7. JDCI has a first ranking security interest in the JDCI Units by virtue of the security and other documents referenced by PWC at paragraph 8 in the Final Determination.
8. JDCI therefore applies to this Honourable Court for an Order approving the payment to JDCI by the Receiver of the Proceeds.

DATED AT St. John's, in the Province of Newfoundland and Labrador, this 16th day of January 2003.

*Entered at St. John's on
this 16th day of January 2003*

Michael Harrington

for 
Michael P. Harrington, Q.C.
Stewart McKelvey Stirling Scales
 Solicitors for John Deere Credit Inc.
 Whose address for service is:
 Suite 1100, 100 New Gower Street
 P.O. Box 5038
 St. John's, NF A1C 5V3

Schedule "A" to the Application for Proceeds

Serial Number	Year	Model	Make	JDCI Debt	Auction Proceeds
FF0200X051172	1999	200LC	JD	\$167,219.46	\$199,500.00
06CR05244	2000	320	CAT	\$159,119.35	\$140,000.00
5TJ02858	1995	D8N	CAT	\$283,892.54	\$165,149.00
10DH1027	2000	1110NA	TJ	\$261,474.76	\$190,000.00
06CR05245	2000	320	CAT	\$159,119.35	\$135,000.00
9JS00289 ¹	2000	320B	CAT	\$190,015.21	\$67,500.00
544B032885899	1999	544B	FABTEK	\$214,282.90	\$65,000.00
T0450GW809815 ²	1995	450G	JD	\$49,795.97	\$57,500.00
DW690EL565134	1998	690E	JD	\$257,866.14	\$30,000.00
FF790EL010023	1992	790E	JD	\$74,516.76	\$39,000.00
FF892EX007239	1993	892E	JD	\$135,210.51	\$40,000.00
FF892EX012643	1998	892E	JD	\$205,212.37	\$145,000.00
C10514	1998	PC200-6	KOMATSU	\$159,620.87	\$65,000.00
AT4C761111995	1995	TM T42B	TIMCO	\$278,561.08	\$24,000.00
993395	1999	610	TJ	\$136,825.13	\$95,000.00
860-8220	1998	860	VALMET	\$265,143.15	\$30,000.00
911C-4019	1998	911C	VALMET	\$331,261.45	\$50,000.00
FF0200X050655	1998	200LC	JD	\$157,295.02	\$110,000.00
FF0330X080964	2000	330LC	JD	\$301,723.63	\$199,500.00
FF0330X080078	1998	330LC	JD	\$228,008.11	\$133,000.00
DW772CH567061	1998	772CH	JD	\$165,889.79	\$95,000.00
FF892EX011283	1995	892E	JD	\$143,278.99	\$40,000.00
FF992EX007040	1997	992E	JD	\$238,277.34	\$100,000.00
FF892EX011686	1996	892E	JD	\$247,470.42	\$40,000.00
06CR04706	2000	320	CAT	\$159,119.35	\$135,000.00
FF0450X090021	1997	450LC	JD	\$298,814.89	\$150,000.00
FF0230X060319	1998	230LC	JD	\$173,019.45	\$104,500.00
T0653GX880032	2000	653G	JD	\$310,401.90	\$180,000.00

* The JDCI Debt amounts are as of March 13, 2002. However, such amounts have, and continue to, accrue interest.

¹ Referred to in Appendix A to Eighth Report of Receiver as Serial Number 9SJ000289.

² Referred to in Appendix A to Eighth Report of Receiver as Serial Number T0450GX809815.

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Name of Issuing Party or Person:	John Deere Credit Inc.
Date of Document:	January 2003
Summary of Order/Relief Sought or Statement of Purpose in filing:	Interlocutory Application of John Deere Credit Inc. for payment to JDCI of the proceeds from the sale by the Receiver of the equipment referenced in the Application.
Court Sub-File Number:	7:

2002 01T 0352

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

IN THE MATTER OF

a Court ordered Receivership
of Hickman Equipment (1985) Limited
("HEL") pursuant to Rule 25
of the *Rules of the Supreme Court, 1986*
under the *Judicature Act*, RSNL 1990,
c. J-4, as amended

AND IN THE MATTER OF

the *Bankruptcy and Insolvency Act*,
RSC 1985, c. B-3, as amended (the "BIA")

NOTICE

You are hereby notified that the foregoing application will be heard by the judge
presiding in chambers at the Court House at St. John's, Newfoundland and Labrador, on
the 3 day of February, 2003, at the hour of 10:00 o'clock in the forenoon or so
(Return date)
soon thereafter as the application can be heard.

AND FURTHER TAKE NOTICE that on hearing of the application, the judge may make an order in favour of the applicant in your absence and without further notice unless you or your solicitor

- (a) cause to be delivered to the applicant or the applicant's solicitor at the address named herein for service, not later than two clear days before the hearing of the application, a true copy of any affidavit or other material that you or your solicitor intend to read on the hearing of the application, and,
- (b) appear on the hearing of the application at the time and place appointed for the hearing.

To: See Schedule "A" Attached.

SCHEDULE "A"

DISTRIBUTION LIST

TO: ABN Amro Bank Canada/ ABN Amro Leasing & Tramac Equipment Ltd.	Aubrey L. Bonnell, Q.C. Brian Winsor David Timms Brent Keenan	709-722-7521 416-868-0673
Bombardier Capital Leasing & Culease Financial Services	J. Vernon French, Q.C.	709-754-2701
Caterpillar Equipment	Colin D. Grant	905-849-5512
CAT Finance	James Smyth, Q.C. Phillip Warren	709-754-5662
Cedarrapids	Les Baumback Francoise Belzil	319-399-4760 780-413-3152
CIBC	R. Wayne Myles Geoffrey Spencer	709-579-2647
CIBC Equipment Finance Ltd./ CIT Financial Ltd.	Gregory W. Dickie	709-722-9210
Contract Funding Group Inc.	Mark G. Klar	416-218-1831
DaimlerChrysler Financial Services/ DaimlerChrysler Capital Services/ Mercedes-Benz of Canada Inc.	Philip Buckingham Peter O'Flaherty Elaine Gray	709-722-4720 416-863-3527
Fabtek Corp.	Linc A. Rodgers Rhodie E. Mercer, Q.C.	416-863-2653 709-726-5705
GE Capital	Harvey Chaiton Frederic Scalabrini	416-218-1849 905-319-4855
GMAC	Thomas R. Kendell, Q.C.	709-722-1763
Group Holdings Ltd./Hickman Equipment/Hickman Holdings Ltd.	Robert Stack/ Griffith D. Roberts	709-726-2992
Ingersoll-Rand Canada Inc.	R. Barry Learmonth Jonathan Wigley	709-739-8151 416-863-6275

MTC Leasing Inc./ National Leasing Group Inc.	R. Paul Burgess	709-754-0915
ORIX Financial Services Canada Ltd.	Donald Yaeck	416-236-3010
Goodman Associates	Paul G. Goodman	902-425-3777
Merrick Holm	Carl Holm, Q.C.	902-429-8215
Royal Bank of Canada	Thomas O. Boyne, Q.C.	902-463-7500
TD Asset Financial Corp.	D. Bradford L. Wicks	709-753-5221
Wells Fargo Equipment Finance Co.	Richard Jones	416-361-6303
Patterson Palmer Hunt Murphy	Frederick J. Constantine	709-722-0483

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person:	John Deere Credit Inc.
Date of Document:	February 2003
Summary of Order/Relief Sought or Statement of Purpose in filing:	Affidavit of David R. Bugaresti in support of the Interlocutory Applications (Inter Partes) of John Deere Credit Inc. for payment to John Deere Credit Inc. of the proceeds from the sale by the Receiver of the equipment referenced in the Interlocutory Applications filed in Court Sub-Files Numbered 7:25 and 7:37
Court Sub-File Number:	7:25 and 7:37

2002 01T 0352

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*, RSNL 1990,
c. J-4, as amended

AND IN THE MATTER OF

the *Bankruptcy and Insolvency Act*,
RSC 1985, c. B-3, as amended


AFFIDAVIT OF DAVID R. BUGARESTI

I, David R. Bugaresti, of the City of Toronto, in the Province of Ontario, make
oath and say as follows:

1. THAT I am Chief Counsel and Secretary of John Deere Credit Inc., and as
such have personal knowledge of the matters herein deposed;

2. THAT I make this Affidavit in support of the Interlocutory Applications (Inter Partes) of John Deere Credit Inc. ("JDCI") for payment to JDCI of the proceeds from the sale by the Receiver of the JDCI Units (as that term is defined in the Interlocutory Applications (Inter Partes) of JDCI filed in Court Sub-Files numbered 7:25 and 7:37);
3. THAT I have reviewed the Floor Plan Notes, Chattel Mortgages and Conditional Sales Agreements from Hickman Equipment to JDCI, which created the payment obligations of Hickman Equipment to JDCI in respect of each of the JDCI Units;
4. THAT all of the aforesaid Floor Plan Notes, Chattel Mortgages and Conditional Sales Agreements are dated after 25 December 1999 and the payment obligations of Hickman Equipment under each arises as of its date;
5. THAT based on my review of the aforesaid Floor Plan Notes, Chattel Mortgages and Conditional Sales Agreements, the date upon which Hickman Equipment obtained possession as debtor of each of the JDCI Units was later than 25 December 1999.

SWORN to before me at Burlington, in the Province of Ontario, this 10th day of February, 2003:


Notary Public


DAVID R. BUGARESTI

REGISTERED MAIL

PricewaterhouseCoopers Inc.
Atlantic Place, Box 75,
215 Water Street, Suite 802
St. John's, NL
Canada A1C 6C9
Telephone +1 (709) 722 3883
Facsimile +1 (709) 722 1428

Mr. Bruce Grant
Stewart McKelvey Stirling Scales
Suite 1100, Cabot Place
100 New Gower Street
St. John's, NL
A1C 5V3

November 27, 2002

Dear Mr. Grant:

This is Exhibit "A" referred to in the
affidavit of David Sugars
dated 15th Nov 2002
Signature: [Signature]
Date: 2003

Re: Hickman Equipment (1985) Ltd. – In Receivership and John Deere Credit

PricewaterhouseCoopers Inc. acts as Court Appointed Receiver of Hickman Equipment (1985) Limited pursuant to a court order dated March 18, 2002. Hickman Equipment (1985) Limited was placed into bankruptcy by way of the Receiving Order also issued on March 13, 2002. Copies of the Court Orders may be obtained from our website at www.pwcglobal.com/brs-hel.

By Court Order dated May 14, 2002 the Claims Plan was approved. A copy of this plan may also be located on the above website.

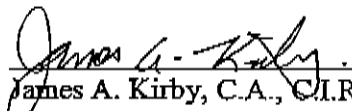
Paragraph 14 of the Claims Plan provided as follows "...the Trustee will issue the Final Determination of the Claim in question, either allowing it as a valid secured claim under Section 135(4) of the *Bankruptcy and Insolvency Act* or disallowing it as a valid secured claim...". Paragraphs 15 and 16 of the Claims Plan provide the details of appeal rights both from rejected claims or those that may be accepted for other creditors. Paragraph 17 of the Claims Plan provides other options where the Trustee believes determination of the claims requires a trial or other legal process.

Attached is our final determination relating to your claim for security.

Pursuant to Paragraph 16 of the Claims Plan where the Trustee has allowed a claim as a valid secured claim, the Court will be asked to confirm this determination as to which the Trustee's final determination will be final and binding on all claimants. Notice of the court hearing for confirmation of the Trustee's final determination will be forwarded to all known secured creditors at least five (5) days prior to the court hearing.

Yours very truly,
PricewaterhouseCoopers Inc.

Per:


James A. Kirby, C.A., C.I.R.P.
Senior Vice-President

JAK/cmc

Encl.

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**FINAL DETERMINATION
RE: JOHN DEERE CREDIT INC. CLAIMS**

Final Determination
November 27, 2002

Re: PricewaterhouseCoopers Inc. ("PWC") as Trustee of Hickman Equipment (1985) Limited in respect of the Claims of John Deere Credit Inc. (the "JDCI") to Security Interests

1. Introduction

PWC as Receiver continues to hold the Assets of HEL under the terms of the Receivership Order granted on March 13, 2002. The Claims Plan is intended to provide a mechanism by which Claimants assert Claims to these Assets.

Pursuant to paragraph 14 of the Claims Plan a Final Determination is to be made by the PWC as Trustee either allowing or disallowing a Claim as a valid secured claim under section 135(4) of the BIA. This is the Trustee's Final Determination in respect of JDCI.

Capitalized terms used in this Final Determination shall have the meaning ascribed to them in the Claims Plan unless otherwise defined herein.

2. Summary Final Determination

JDCI's claim:

- (a) to be owed \$17,443,004.25 (the "Total Debt") by HEL, as at the Date of Bankruptcy, is allowed, subject to the taxation of legal fees in the amount of \$101,730.69 and subject to any adjustment to the PowerPlan for receipts by JDCI in respect of the PowerPlan debt;
- (b) to be owed the Individual Debts, as defined herein, by HEL as at the Date of Bankruptcy is allowed;
- (c) to a security interest in the items listed in Schedule B as security for the Individual Debts set out in the Column entitled "JDCI Debt" in Schedule B is allowed;
- (d) to a security interest in the Assets as security for the Total Debt is allowed; and

(e) to have established that the security interests in the Assets satisfy the *definition* of a PMSI is allowed in respect of the financings for the Assets listed in Schedule A as letters A and B and numbers 2-4, 6, 7, 9-14, 16-25, 27-29, 31, 32, 35-43, 45, 46, 48-54, 55-63, 66 and 82.

3. Defined Terms

When used in this Final Determination the following words or abbreviations shall have the meaning ascribed:

"Asset(s)"	-	the assets listed as items 1 to 8, 10 to 43 and 45 to 63 in Schedule "A" hereto
"BIA"	-	<i>Bankruptcy and Insolvency Act</i> , R.S.C. 1985, c.B-3, as amended
"Date of Bankruptcy:"	-	March 13, 2002
"Documents"	-	the documentation referred to in paragraph 8
"HEL"	-	Hickman Equipment (1985) Limited
"Individual Debt"	-	the amount owed to JDCI by HEL in respect of individual items listed in Schedule B. The Individual Debt for each item allowed as at the Date of Bankruptcy is the amount set out in the column entitled "JDCI Debt" in Schedule B
"PMSI"	-	Purchase Money Security Interest
"PPR"	-	Personal Property Registry
"PPSA" or "Act"	-	<i>Personal Property Security Act</i> , S.N.L. 1998, c.P - 7.1
"Province"	-	Newfoundland and Labrador
"Regulations"	-	<u>Personal Property Security Regulations</u> (103/99)
"Trustee"	-	PricewaterhouseCoopers Inc. in its capacity as Trustee of the Estate of Hickman Equipment (1985) Limited
"Total Debt"	-	means \$17,443,004.25

4. The Assets

JDCI claims a security interest in 89 pieces of heavy equipment of which, 25 were identified by JDCI as being sold out of trust and 61 were in the possession of PWC and sold at the auction held on July 12, 2002 for the proceeds set out in Schedule B. The other 3 units, being units identified as A, B and 65 in Schedule A, were not in inventory at the commencement of the receivership and did not come into the Receiver's possession.

5. Assumptions

For the purposes of this Final Determination, PWC has assumed:

- (a) the genuineness of all signatures, the authenticity of all original Documents and the conformity to authentic originals of all Documents that are copies, whether facsimile, photostatic, certified or otherwise;
- (b) that each party to any of the Documents that create obligations for that party, has duly authorized, executed and delivered such Documents to which it is a party;
- (c) with the exception of security interests created by the Documents, the Documents that create obligations for parties, constitute legal, valid and binding obligations of each party thereto, enforceable against each of them in accordance with their terms;
- (d) that insofar as any obligation under any of the Documents is to be performed in any jurisdiction outside the Province, its performance will not be illegal or unenforceable by virtue of the laws of that other jurisdiction; and
- (e) the accuracy and currency of the indices and filing systems maintained in relation to the public registries where we have searched or inquired or have caused searches or inquiries to be conducted.

6. Qualifications

Since there is no title registration system in the Province relating to personal property, any opinion respecting title is based solely upon the Documents.

For the purpose of determining the validity under prior law of security interests created and registered before the implementation of the PPSA and transitioned by registration in the PPR, the Trustee has only reviewed the security agreements and the registrations referenced in the PPR search report section entitled: "Pre-PPSA Registration Information Continued by this registration", endorsements, if any, on the security agreements reviewed and the Pre-PPSA legislation and the applicable common law relating to their registration.

Both the PPSA, and the *Conditional Sales Act* (the latter statute being part of the "prior law") provide that property in goods pass to a purchaser from a seller or trader where the sale is in the ordinary course of business of the seller or trader. In some instances HEL transferred equipment subject to a security interest to a purchaser without discharging the security interest. In some cases the purchaser granted a security interest to another lender, while in other cases the purchaser transferred the equipment to a third party who, in turn granted a security interest to a lender. Due to the lack of evidence concerning all transactions involving the Assets, we are unable to determine if sales by HEL were "in the ordinary course of business" such as to enable the purchaser to receive clear title to the equipment in order to allow a subsequent lender to obtain a valid security interest or a subsequent transferee to obtain clear title.

No opinion is expressed with regard to any collateral covered by the Documents, but not referred to in this Final Determination.

Pursuant to the terms of the Court Order establishing the Claims Plan, this Final Determination determines the validity of security claimed against the Estate of HEL and whether such security has been properly perfected. For the assistance of readers, the Trustee has sometimes provided comments concerning the priority of such security vis-à-vis other parties but such priority-related comments are made without prejudice to any position, which may be taken at any future date by any other party in regards to priorities.

Notwithstanding the findings in this Final Determination concerning the validity of JDCI's Claim, the Trustee is not precluded by such determination from taking proceedings in respect of the Debt, Security Interest or Assets dealt with herein pursuant to the provisions of the BIA or any provincial or other legislation dealing with preferences, reviewable or fraudulent transactions or settlements.

Except where a specific claim to proceeds has been made out and material provided in support of that claim, the Trustee expresses no opinion with respect to claims to proceeds or claims involving tracing. An outline of the proceeds claims process and issues are set out in paragraph 18.

7. Overview of Claim

JDCI claims that it has a perfected general security interest in the amount of \$18,160,829.50 secured by each of the Assets; and that it has a perfected specific security interest in each of the Assets for the Individual Debts to the extent of the indebtedness set out in the column entitled "Total Debt" in Schedule A. The indebtedness arises from a series of financings that JDCI made on behalf of HEL, amounts for which HEL is responsible under the PowerPlan Agreement and legal fees. JDCI maintains that it has satisfied all of the requirements to attach and perfect a security interest in 89 pieces of equipment, including registration of the security interests in the PPR. JDCI further asserts a PMSI in each of the 89 pieces of equipment including the Assets.

Three of the Assets are the subject of double financings by JDCI and HEL. The three Assets and the financings are those numbered 5 and 82; 8 and 9; and 26 and 66 in Schedule A.

JDCI says that there may be other assets that are or were in the possession of the Receiver which are in the nature of proceeds to which JDCI claims a security interest. Any such assets that may constitute proceeds and have not been identified are not the subject of this Final Determination.

8. Documentation

For the purposes of this Final Determination PWC has been provided with, reviewed, considered and relied upon the following:

- (a) Proof of Claim (Form 31) of JDCI dated April 17, 2002, filed in the bankruptcy of HEL together with the following attachments:
 - (i) Inventory Security Agreement;
 - (ii) JDC Wholesale Finance Agreement;
 - (iii) Timberjack Finance Wholesale Finance Agreement;
 - (iv) Floor Plan Notes and the Chattel Mortgages;
 - (v) Schedule B to Claim setting out particulars of claim in respect of the 94 financings (listed in Schedule A to this Final Determination);
- (b) Repurchase agreement dated December 7, 1984 between HEL and John Deere Limited.
- (c) Repurchase agreement dated September 10, 1993 between HEL and John Deere Finance Limited (the "Repurchase Agreement").
- (d) Letter dated January 23, 1995 from Canadian Equipment Finance Corporation to HEL offering a revolving line of credit for a John Deere Equipment, Inventory Finance Program (the "CEFC Line of Credit Agreement").
- (e) PowerPlan Credit Program Merchant Agreement between JDCI and HEL, agreement dated October 1, 1999 (the "PowerPlan Agreement") and related correspondence, together with weekly PowerPlan statements from December 14, 2001– April 5, 2002.
- (f) Purchase Money Security Interest Notices by JDCI, all dated December 14, 1999, addressed to:
 - (i) CIBC Equipment Finance Limited;
 - (ii) Bombardier Capital Leasing Limited;
 - (iii) ABM AMRO Leasing, a Division of ABM AMRO Bank Canada;
 - (iv) Canadian Imperial Bank of Commerce;
 - (v) General Motors Acceptance Corporation of Canada, Limited.
- (g) Inventory Security Agreement made between JDCI and HEL dated May 9, 2000 (the "Inventory Security Agreement");

- (h) John Deere Credit Wholesale Finance Agreement for Construction Dealers made between JDCI and HEL dated August 24, 2001 (the "JDC Wholesale Finance Agreement");
 - (i) Timberjack Finance Wholesale Finance Agreement made between JDCI and HEL dated August 24, 2001 (the "Timberjack Wholesale Finance Agreement");
 - (j) 59 Chattel Mortgage Agreements made between HEL as Mortgagor and JDCI as Mortgagee (the "Chattel Mortgages")
 - 34 Floor Plan Notes issued by HEL in favour of JDCI some referencing the agreement described in paragraph 8(b) (the "JD Floor Plan Notes") and others referencing the agreement described in paragraph 8(c) (the "Timberjack Floor Plan Notes"); (collectively the "Floor Plan Notes")
 - 3 Conditional Sale Agreements made between Timberjack Corporation as the Conditional Vendor and HEL as the Dealer (or Purchaser) and assigned to the JDCI (the "Timberjack Conditional Sale Agreements")
- Note: A. All documents except the Timberjack Conditional Sale Agreements and two of the Chattel Mortgages were signed by JDCI acting as HEL's attorney;
- B. The Chattel Mortgages all pre-date August 24, 2001. The Floor Plan Notes are all dated subsequent to August 24, 2001.
- (k) for each of the 94 financings, documents evidencing the request for financing from HEL with any supporting documentation; a loan amortization schedule; wholesale input control sheet; directions to pay (in some instances) and a settlement printout showing the application of the financing funds;
 - (l) PPR search report for the Province conducted in the name of HEL dated March 21, 2002;
 - (m) confidential responses from JDCI to PWC concerning additional information and the Initial Opinion;
 - (n) PPR search report for Nova Scotia conducted in the name of HEL dated October 22, 2002 indicating no registrations.

It should be noted that JDCI was created by the amalgamation of John Deere Finance Limited and Canadian Equipment Finance Corporation on October 28, 1996.

9. The Claim

A. The Debt:

(a) Claimed

JDCI has set out in its Proof of Claim the sum of \$18,160,829.50 consisting of the amounts advanced and unpaid on the various equipment financings ("Wholesale") totalling \$17,588,600.24, amounts due under the PowerPlan Agreement totalling \$470,498.57 and legal fees totalling \$101,730.69. JDCI subsequently advised that financings numbered 44 and 64 in its Schedule A were paid out, in effect reducing the outstanding Wholesale claim by \$619,182.75 (\$149,105.67 for item 44 and \$470,077.08 for item 64). JDCI provided no information for another unnumbered financing on its schedule B to the Proof of Claim (serial number T0310SG895252 which appears to also have been paid out).

The Total Debt calculated by the Trustee based on the foregoing is \$17,443,004.25, consisting of Wholesale Debt of \$16,870,774.99; PowerPlan indebtedness of \$470,498.57 and legal fees of \$101,730.69.

JDCI has provided additional information concerning the accrual of interest and legal expenses after the Date of Bankruptcy, which will not be determined by this Final Determination.

JDCI claims that the amount owed to it by HEL as of March 13, 2002 in respect of the financing of the individual items listed in Schedule B is the amount set out in the column entitled "Total Debt" in Schedule A opposite the Asset.

(b) Allowed or Disallowed

JDCI's claim for the Total Debt, and the Individual Debts is allowed by the Trustee based on the Documents reviewed by or on behalf of the Trustee and referred to in paragraph 8, subject to the taxation of the legal fee component of Total Debt.

Wholesale Debt

JDCI relies upon the CEFC Line of Credit Agreement, Inventory Security Agreement, the John Deere Credit Wholesale Finance Contract, the Timberjack Wholesale Agreement, the Floor Plan Notes, the Chattel Mortgage Agreements and the Timberjack Conditional Sale Agreement to establish its Claim to the Wholesale Debt.

These documents evidence a financing arrangement between JDCI and HEL where JDCI would finance the purchase of new or used equipment inventory supplied to HEL by John Deere Limited or acquired from third parties or traded in by customers. On some occasions

HEL was required to purchase used units from JDCI pursuant to its obligations under the Repurchase Agreement (e.g. where units were repossessed from retail purchasers).

The Chattel Mortgage Agreements were granted under the terms of the CEFC Line of Credit Agreement and the Floor Plan Notes were provided pursuant to the terms of the Wholesale Finance Agreements.

The material provisions of the Wholesale Debt Documents for the purposes of this Final Determination follow.

The CEFC Line of Credit Agreement provides as follows:

Facility: A Secured Revolving Line of Credit (the "Facility") to be used to finance John Deere new, used, and rental products, as well as other products sold by the Dealer, (collectively the "Equipment" or "Collateral", as per the Inventory Security Agreement). This Equipment would be available for sale, lease or rental-purchase, to customers of the Dealer in Canada.

Security: 1. An Inventory Security Agreement, providing a first fixed charge on all equipment to be financed for the Dealer, as well as a chattel mortgage agreement for equipment initially financed by CEFC;

2. Subordination agreements from all other lenders will be required, with respect to the initial secured equipment financed;

3. A Priorities Agreement among the Dealer, the Dealer's Bank, John Deere Limited, and, CEFC;

Sale of Equipment: Whenever, one or more of the financed pieces of equipment is sold, the full principal and accrued interest on that portion of the Facility must be immediately paid to the Lender.

The Inventory Security Agreement contains the following concerning security, its execution and attachment:

- (a) "Definitions..." "Obligations" means all indebtedness, obligations, liabilities, covenants and agreements (including, without limitation, this Agreement) of any kind whatsoever of Customer to JDCI...
- (b) Grant of Security. As general continuing security for the payment, performance and observance of all Obligations, and in addition to, and not in substitution for, any other security now or hereafter held by JDCI, Customer hereby grants, assigns, conveys, transfers, pledges, hypothecates, charges and otherwise grants a security interest (the "Security Interest") to and in favour of JDCI in the following property now owned or hereafter acquired by Customer wherever located (the "Collateral"): (a) each item of Customer's Inventory sold or distributed by JDCI to, or financed by JDCI for, Customer, until paid for in full, including without limitation, new and used Goods sold by JDCI to Customer and financed by JDCI, new or used Goods owned by Customer and financed by JDCI and Customer's Inventory described on Schedule

"A" attached, if any; (b) each item of Customer's Equipment that is not held for rental, lease sale or resale but which has been financed by JDCI, until paid for in full, including without limitation, the Equipment described on Schedule "A" attached, if any; (c) all attachments, accessions, additions to, and substitutions for, Goods acquired by Customer as trade-ins for, the property referred to in (a) and (b) above; (d) all right, title and interest of Customer in, to and under any and all instalment sale contracts, rental agreements and leases entered into by Customer covering the sale, resale, rental, lease or other disposition of any Inventory or Equipment in which JDCI has been granted a Security Interest under (a) or (b) above, together with the benefits, rights and remedies thereunder...

Schedule "A" contains the following description:

All new or used construction and forestry equipment, vehicles, backhoes, crawlers, crawler-dozers, crawler-loaders, four wheel drive loaders, excavators, motor graders, compactors, rollers, paving equipment, skidders, feller bunchers, delimbers, saw-heads, scrapers, forklifts, landscape loaders, articulated dump trucks and other machinery, equipment, implements and construction and forestry products, including without limitation, goods marked with one or more of the brand names John Deere, Tigercat, Valmet, Fabtek, Ingersoll Rand or Blaw Knox, and all attachments, accessories and accessions thereto and repair and spare parts therefor.

- (c) Power of Attorney. Customer hereby irrevocably appoints each present and future officer and employee of JDCI to be Customer's attorney with full power of substitution and delegation to execute for and in the name of and on behalf of Customer and register instalment sales contracts, instalment leases and other security agreements which JDCI may use with respect to sales by Customer of Inventory or any Instruments or Chattel Paper.
- (d) Attachment. Customer acknowledges that the Security Interest attaches upon the execution of this Agreement (or, in the case of any after-acquired property, upon the date of such acquisition) and that value has been given and that Customer has (or in the case of after-acquired property, will have) rights in Collateral. The parties have not agreed to postpone attachment.

The John Deere Credit Wholesale Finance Contract is described as being offered to assist HEL in financing:

- (i) new Deere Inventory
- (ii) ADT Longlead Inventory delivered to the Dealer by JDL
- (iii) new Non-Deere Inventory and Non-Deere Rental Inventory

- (iv) used John Deere construction and forestry equipment and used construction and forestry equipment of like makes and models

The Timberjack Wholesale Agreement is described as being offered by JDCI to assist HEL in financing:

- (i) Timberjack Inventory and Timberjack Rental Inventory
- (ii) Non-Timberjack Inventory
- (iii) Eligible Used Equipment

The Floor Plan Notes are all issued pursuant to the terms of the Wholesale Finance Agreements and reference as security for the sums advanced, the Inventory Finance Agreement.

The Wholesale Agreements set out the steps to be taken to request and obtain wholesale financing.

- (a) Both the John Deere Credit Notes and the Notes issued under the Timberjack Finance Agreement contain the following:

"As security for the Dealer's obligations under the Note, the Dealer has executed and delivered to JDCI an Inventory Security Agreement dated May 9, 2000."

- (b) The John Deere Plan Notes provide:

JDCI is hereby irrevocably authorized and directed to pay Hickman Equipment (1985) Limited the Principal Sum less applicable documentation fees and the Dealer acknowledges and confirms upon JDCI making such payment as directed, the Dealer shall become indebted to JDCI for the Principal Sum and interest thereon pursuant to the terms and conditions thereof.

- (c) The Timberjack Plan Notes (of which there are only 3, in respect of items 37, 64 and 89 on Schedule "A") provide:

JDCI is irrevocably authorized and directed to pay Timberjack Corp. the Principal Sum less applicable documentation fees and the Dealer acknowledges and confirms that upon JDCI making such payment as directed, the Dealer shall become indebted to JDCI for the Principal Sum and interest thereon pursuant to the terms and conditions hereof.

The Chattel Mortgage Agreements are all made between HEL as Mortgagor and JDCI as Mortgagee and provide in part:

- (a) "In consideration of:
A loan in the Principal Sum of \$_____ being advanced by the Mortgagee to the Mortgagor,"
- (b) "The Mortgagor, to secure payment of the Mortgagor's total indebtedness to the Mortgagee as set forth herein and the performance of all other obligations owing by the Mortgagor to the Mortgagee, hereby conveys, mortgages, charges and assigns to the Mortgagee, and grants to the Mortgagee a security interest in, the following chattels, all substitutions therefor, all additions, accessories and accessions thereto, all replacement parts and repairs and all alterations or improvements thereto and any proceeds thereof (all of which are hereinafter referred to as the "Charged Collateral")."
- (c) Each Chattel Mortgage Agreement describes by Make, Model and Serial Number a specific piece of equipment which is the "Charged Collateral";
- (d) The Chattel Mortgage Agreements provide that:

"The security constituted hereby shall cease and determine if the Mortgagor performs all of its obligations hereunder and under any Guaranteed Agreement, if applicable, and pays to the Mortgagee the Principal Sum: ... provisions for payment as set out."
- (e) The Mortgagor represents, covenants and agrees with the Mortgagee that:

"The Mortgagor exclusively possesses and owns the Charged Collateral free and clear of any liens, charges, security interest and other encumbrance of any kind whatsoever, and shall defend the Charged Collateral against all persons claiming an interest therein other than the Mortgagee."

The Timberjack Conditional Sale Agreements provide:

"Timberjack reserves title to, ownership of, and a purchase money security interest in, the goods and all proceeds thereof, until payment in full has been made...The parties have not agreed to postpone the time for attachment of the security interests herein. The Dealer acknowledges receipt of a copy of this Conditional Sale Contract and consents and acquiesces to any assignment of this Conditional Sale Contract by Timberjack to John Deere Credit Inc..."

There is noted on each Timberjack Conditional Sale Agreement: "All Timberjack Corporation's rights under this conditional sale contract and all Timberjack Corporation's interest in the property have been assigned to John Deere Credit Inc."

PowerPlan Debt

A portion of the Claim consists of obligations arising under the PowerPlan Merchant Agreement. This agreement establishes a retail credit facility for HEL's customers financed by JDCI in the nature of a credit card arrangement. Sales would be credited to HEL at a discount and customer payments would be made over time together with interest. Withdrawals and deposits were netted out on each statement and either a deposit was made to HEL's account or a withdrawal was made, depending upon the status of the account at the statement date. In all instances the credit extended to HEL's customers was with full recourse to HEL.

The PowerPlan Agreement states in part:

6. Merchant Authorized Accounts and Transactions: Upon Merchant's request and with written consent of PowerPlan, Merchant may establish Merchant Authorized Accounts to which Customers may charge Merchant Authorized Transactions. PowerPlan will have full recourse to Merchant, and Merchant will be liable to PowerPlan, for all amounts charged on a Merchant Authorized Account. Merchant must comply with the Manual in establishing Merchant Authorized Accounts, including the provision of a copy of the PowerPlan credit agreement (the "Credit Agreement") to each Customer for whom the Merchant wishes to establish a Merchant Authorized Account prior to completing the first transaction in respect of such Merchant Authorized Account. PowerPlan reserves the right to accept or reject without prior notice any Merchant Authorized Account or any Merchant Authorized Transaction.

14. Payment to Merchant: For Customer transactions submitted to and accepted by PowerPlan in accordance with this Agreement, Merchant shall receive payment from PowerPlan in an amount equal to the unpaid principal indebtedness thereunder, less the Discount Charge and any other charges payable by Merchant under this Agreement, when applicable.

Merchant hereby authorizes PowerPlan to initiate Electronic Funds Transfer (EFT) via Automated Clearing House Credits (ACH Credits) for payment of amount due Merchant. Payments to Merchant transferred through EFT will be deposited in the financial institution account as specified by the Merchant.

22. Merchant Payments: Merchant acknowledges that PowerPlan has the right to charge back certain Customer Account balances to merchant pursuant to this Agreement. In the event of an obligation arising due to a breach of this Agreement, PowerPlan may demand immediate payment in full of any or all of the Accounts to which the breach relates.

30. Termination: ...The parties agree that this Agreement shall terminate immediately and without further notice to Merchant upon any dissolution, termination of existence, insolvency, bankruptcy or business failure of Merchant or any guarantor of Merchant's obligations to PowerPlan ("Guarantor"), upon the application for or the appointment of a receiver manager of any part of the property of the Merchant or any Guarantor or the commencement by or against the Merchant or any Guarantor of any proceeding under any bankruptcy, arrangement, reorganization, dissolution, liquidation, insolvency, or similar law

for the relief of or otherwise affecting creditors of Merchant or Guarantor or upon the issued of any writ of execution, attachment, garnishment or similar process against Merchant or Guarantor or any part of the property thereof...

In January 2002 statements reveal that a series of items were charged back to HEL under the PowerPlan agreement. On the February 22, 2002 statement appears the following notice:

Balance Due Notice

Our records show that your account has been in a credit position for approximately 30 days. This means that the payments and/or refunds you have collected have exceeded your sales for that period.

Could you please submit a payment to us for the amount outstanding. To correctly apply your payment please attach a copy of this statement.

If we do not receive a payment, service charges may be applied in accordance with the new policy update.

If you anticipate that sales in the upcoming week will offset your credit balance, please disregard this notice and accept our thanks.

Please remit payment to the above address.

This notice was repeated on all subsequent statements.

The statement for March 8, 2002 shows an outstanding balance due by HEL of \$470,498.57. This is the amount claimed by JDCI as a debt due, and as being secured, and is established by the statements.

Customers may continue to make payments on the PowerPlan Debt, which may change the account status between HEL and JDCI. Accordingly, any receipt by JDCI for the PowerPlan Debt would have to be accounted for by JDCI with the Trustee and/or the Receiver.

Legal Fees

A portion of the Claim (\$101,730.69) consists of legal fees. PWC has not been provided with the accounts of counsel to JDCI and cannot therefore verify that the accounts have been paid.

Legal fees that qualify as reasonable and incurred for the purposes set out in section 9 of the Inventory Security Agreement are secured under the terms of the Inventory Security Agreement. The courts of the Province reserve the right to tax and allow as reasonable legal fees payable by parties pursuant to the *Rules of the Supreme Court, 1986*. Subject to

such taxation and to a review of the accounts to ensure they fall within the ambit of section 9, the Claim in this respect is allowed as a valid debt.

B. The Security Interest

(a) Asserted

JDCI claims to have a security interest in the Assets. It also claims to have a security interest in the assets listed as items A, B, 65, 67 to 81 and 83 to 92 in Schedule A (as the latter assets were not in the possession of the Receiver, they are not Assets for purposes of this Final Determination).

JDCI claims the Assets in which a security interest is claimed are:

- (a) in the nature of Inventory
- (b) originally financed goods and not proceeds.

JDCI claims to have a security interest in:

- (a) each of the individual Assets as security for the amounts set out in the column entitled "JDCI Debt" in Schedule B in respect of the Individual Asset and in
- (b) all of the Assets as security for the Total Debt.

JDCI asserts it has a PMSI in each of the individual Assets for the Individual Debts and a general security interest in all of the Assets, for the Total Debt.

(b) Security Interest – Allowed or Disallowed

1. Determinations

The Trustee has determined that the Assets in which a security interest is claimed are in the nature of inventory.

The basis of this Determination is the actual use to which the goods are put.

The actual use to which goods are put by the debtor dictates whether they will be classed as inventory, equipment or consumer goods. Goods that are held by a person for sale or lease or that have been leased by that person as lessor are inventory. To the best of PWC's knowledge, after reasonable inquiry, all of the Assets were held by HEL as Inventory (PPSA, Section 2(x)).

2. JDCI has a security interest:

- (a) in the individual Assets for the Individual Debts; and
- (b) all of the Assets as security for the total debt for the reasons set out following:

Wholesale Debt

John Deere Floor Plan Notes

Each John Deere Floor Plan Note evidences a principal sum advanced by JDCI to HEL. HEL promises to pay the principal together with interest according to the stipulated payment terms. The settlement information is further evidence of the advances.

Chattel Mortgages

Each Chattel Mortgage evidences a loan being advanced by JDCI to HEL. HEL promises to pay the principal together with interest, according to the stipulated payment terms. The settlement information is further evidence of the advances.

Timberjack Floor Plan Notes

Each Timberjack Floor Plan Note evidences a principal sum advanced by JDCI to HEL. HEL promises to pay the principal together with interest according to the stipulated payment terms. The settlement information is further evidence of the advances.

Timberjack Conditional Sales Agreement

The Timberjack Conditional Sales Agreement indicates that HEL is buying the goods on terms calling for payment on the earlier of 120 days from the date of the contract or when the goods are sold, leased or otherwise taken out of inventory. These agreements were assigned to JDCI and JDCI has provided settlement information that evidences advances in respect of these purchases.

PowerPlan Debt

The balance due by HEL to JDCI under the PowerPlan Agreement falls within the definition of "Obligations" in Inventory Security Agreement and relates to obligations created after the date of the Inventory Security Agreement. Accordingly it is afforded a secured status under the terms of the Inventory Security Agreement.

Legal Fees

The Inventory Security Agreement in section 9 provides:

There shall be added to, and deemed part of, the Obligations payable by Customer hereunder: (i) the amount of all reasonable expenses (including, without limitation, legal

fees and expenses on a solicitor and his own client basis and expenditures incurred by JDCI in exercising its rights and remedies hereunder) made by JDCI at any time in the repossessing, storing, repairing, reconditioning and/or disposing of Collateral, in whole or in part, and in perfecting, preserving and enforcing its Security Interest, rights and remedies hereunder, and (ii) interest on each such expenditure from the date it is made until payment by Customer is received in full, at the rate of 24% per annum.

The Chattel Mortgage Agreements provide in section 5:

There shall be added to, and deemed part of, the indebtedness payable by Mortgagor hereunder (i) the amount of all reasonable expenditures, (including, without limitation, legal fees and expenses of a solicitor and his own client basis and expenditures incurred by Mortgagee in exercising its rights and remedies hereunder made by Mortgagee at any time in the retaking, repairing, reconditioning, storing, preserving, and/or disposing of Charged Collateral, in whole or in part, and in perfecting, preserving and enforcing its security interests, rights and remedies hereunder, and (ii) interest on each such expenditure from the date it is made until payment by Mortgagor is received in full at the rate of 24% per annum.

The Floor Plan Notes contain the following provision:

The Dealer shall pay all costs arising or incurred by JDCI as a result of a Default, including reasonable legal fees on a solicitor and his own client basis.

The Trustee is satisfied, based upon the Documents, that JDCI was owed at the Date of Bankruptcy, the Total Debt and JDCI has a security interest in the Assets for both the Individual Debts and the Total Debt.

10. Application of the PPSA

By section 4 of the PPSA, the PPSA applies to every transaction that in substance creates a security interest without regard to form and without regard to who has title to the collateral and includes a chattel mortgage, conditional sale, fixed charge, floating charge, pledge, trust indenture, trust receipt, an assignment, a consignment, lease, trust or transfer of chattel paper where they secure payment or performance of an obligation.

The Documents establish security interests that fall within the ambit of the PPSA for each of the 89 pieces of equipment.

11. Enforceability of the Security Agreement

A security agreement is enforceable against a third party where the debtor has signed a security agreement that contains an appropriate description of the collateral as provided by section 11 of the PPSA.

A representative of Hickman signed the Inventory Security Agreement, the JD Wholesale Finance Agreement, the Timberjack Wholesale Finance Agreement and the Timberjack Conditional Sales Agreement. The Floor Plan Notes and the Chattel Mortgages were all signed by JDCI as HEL's attorney under the authority of the Inventory Security Agreement. The execution by JDCI as HEL's attorney satisfies the PPSA requirements of section 11.

Section 11(b) permits a description of collateral by item or kind *or* by reference to one or more of the following: "goods", "document of title", "chattel paper", "security", "instrument", "money" or "intangible"; a statement that a security interest is taken in all of the debtor's present or after-acquired personal property; or a statement that a security interest is taken in all of the debtor's present and after-acquired personal property except specified items or kinds of personal property or except one or more of the following: "goods", "documents of title", "chattel paper", "security", "instrument", "money" or "intangible".

"Goods" are defined by the PPSA s. 2 (u) to include tangible personal property and would be adequate to describe the Assets.

A description of collateral as inventory is adequate only while the collateral is held by the debtor as inventory (PPSA, s.11).

The descriptions of the collateral contained in the Inventory Security Agreement, the Floor Plan Notes, the Chattel Mortgages and the Timberjack Conditional Sale Agreement and set out in paragraph 9 are sufficient to provide an enforceable security agreement for the purposes of section 11 of the PPSA.

12. Effectiveness of the Security Agreement

According to section 10 of the PPSA a security agreement is effective according to its terms. The terms of the Inventory Security Agreement, the Floor Plan Notes, the Chattel Mortgages and the Timberjack Conditional Sale Agreement provide for the security interest claimed by JDCI.

13. Attachment

A security interest in collateral contained in a security agreement attaches when value is given and the Debtor has rights in the collateral. In this case, as indicated in Section 9(B)(2), the Trustee is satisfied that value has been given with respect to the Floor Plan Notes, the Chattel Mortgage Agreement, and the Conditional Sale Agreements, sufficient to attach the security described both in those agreements, and the Inventory Security Agreement.

With respect to HEL's rights in the collateral, all of the Assets were in HEL's possession at the time of its bankruptcy and were in PWC's possession as Receiver of HEL's Assets.

John Deere Floor Plan Notes and Timberjack Floor Plan Notes

Each of the Floor Plan Notes identifies a specific piece of equipment for which the advance is made and in which security is granted under the terms of the Inventory Security Agreement.

Chattel Mortgages

HEL as mortgagor represents that it owns the charged collateral free and clear of encumbrance.

Timberjack Conditional Sales Agreement

These agreements constitute a purchase of the subject goods by HEL, giving HEL rights in the collateral as conditional purchaser.

14. Perfection

A security interest is perfected when it has attached in all steps required for its perfection under the PPSA have occurred (PPSA, s.20).

The Trustee has determined that the security interests claimed by JDCI have been perfected as:

- (a) the Trustee has determined that the security interests claimed have attached; and
- (b) JDCI has made the following registrations under the provisions of the PPSA:

Registration number 5504 at the PPR dated December 14, 1999 with an expiry date of December 14, 2009 contains the following information:

General Description of Collateral: a security interest is taken in 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, instruments, money and intangibles derived directly or indirectly from any dealing with the collateral and a right to any insurance payment or any other payment that indemnifies or compensates for loss or damage to the collateral or the proceeds of the collateral.

Debtor: Hickman Equipment (1985) Limited

Secured Party: John Deere Credit Inc.

PPSA Registration filing 5504 was amended on January 28, 2002 by filing an Amendment that bears PPSA Amendment Registration Number 1569378 and adds the following to the General Description Collateral:

the following is added to the current general collateral: without limiting the generality of the foregoing, a security interest is taken in the following property now or hereafter acquired by the debtor, wherever located: all new or used construction and forestry equipment, vehicles, backhoes, crawlers, crawler-dozer, crawler-loaders, four wheel drive loaders, excavators, motor graders, compactors, rollers, paving equipment, skidders, feller bunchers, delimbers, saw-heads, scrapers, forklifts, landscape loaders, articulated dump truck, and other machinery, equipment, implements and construction and forestry products, including without limitation goods marked with one more of the brand names john deere, tigercat, valmet, fabtek, ingersoll rand, and blaw knox, and all attachments, accessories, and accessions thereto and repair and spare parts therefore and all proceeds therefrom in any form whatsoever.

As indicated previously the Assets are heavy equipment (and may include "serial numbered goods" as defined by section 2(p) of the Regulations), but so long as they are Inventory and remain as such, the collateral need not be described by serial number, but must be described in compliance with section 24 of the Regulations.

Section 24 of the Regulations permits a description of collateral by item or kind or by reference to, "goods", "document of title", "chattel paper", "security", "instrument", "money" or "intangible"; a statement that a security interest is taken in all of the debtor's present or after-acquired personal property; or a statement that a security interest is taken in all of the debtor's present and after-acquired personal property except specified items or kinds of personal property or except one or more of the following: "goods", "documents of title", "chattel paper", "security", "instrument", "money" or "intangible".

"Goods" are defined by the PPSA s. 2 (u) to include tangible personal property and would be adequate to describe the Assets.

A description of collateral as inventory is adequate only while the collateral is held by the debtor as inventory (Regulations s. 24(3)).

The description in the initial registration number 5504 is in compliance with the requirements of the Regulations. By operation of s.26 of the PPSA, the registration qualifies as a perfection step with respect to JDCI's security interest in the Assets.

15. Effective Date of Perfection

It is the Trustee's determination that the effective date of perfection of the security interest claimed by JDCI is December 14, 1999 for the purposes of section 36 of the PPSA.

16. PRE-PPSA/Transitioning Issues

The transition provisions of the PPSA are not applicable in this instance as all transactions took place subsequent to the coming into force of the PPSA in the Province of Newfoundland and Labrador.

17. PMSI

The definition of PMSI is contained in section 2 (hh) of the PPSA to mean:

- (i) a security interest taken in collateral to the extent that it secures all or part of the purchase price of the collateral;
 - (ii) a security interest taken in collateral by a person who gives value for the purpose of enabling the debtor to acquire rights in the collateral, to the extent that the value is applied to acquire the rights;
 - (iii) the interest of a lessor of goods under a lease for a term of more than one year, and
 - (iv) the interest of a consignor who delivers goods to a consignee under a commercial consignment,
- but does not include a transaction of sale by and lease back to the seller, and for the purpose of this definition, "purchase price" and "value" include interest, credit costs and other charges payable for the purchase or loan credit;

PWC has been asked to determine if the Documents support a finding that the security interests of JDCI fulfill the definition of a PMSI.

Courts have accepted that PMSIs can exist in transaction where loans are made to payout, refinance or consolidate existing secured loans (see McLaren, *Secured Transactions in Personal Property in Canada* (2nd) pp. 5-42 to 5-52.1), as these transactions allow the debtor to acquire title (or more title) and thus give the debtor further rights in the collateral. Transactions are to be examined to determine if value was given to "... enable the debtor to expand its asset base, by enabling it to acquire rights in or the use of collateral."

All of the Floor Plan Notes, and the Chattel Mortgages evidence a security interest taken in a specific Asset where value has been given by JDCI for the purpose of enabling HEL to acquire rights in the specific Asset and the principal amount set out in the Floor Plan Notes and the Chattel Mortgages represents the value given by JDCI to allow HEL to acquire rights in the Assets. In most, but not all cases sufficient evidence has been provided by JDCI to support a conclusion that the value given was in fact used by HEL to acquire interests in the collateral.

The Timberjack Conditional Sale Agreements evidence a security interest taken in a specific Asset to secure all or part of the purchase price of that specific Asset. This security was assigned to JDCI.

The Timberjack Conditional Sale Agreements

The Documents related to these transactions indicate that Timberjack sold equipment to HEL on credit terms subject to a reservation of title. The agreements were assigned by Timberjack to JDCI, who in effect financed the purchase and assumed Timberjack's position as conditional seller. The evidence supports a conclusion that these transactions fall within the paragraph 2(hh)(i) definition of PMSI.

The Chattel Mortgages and Floor Plan Notes

The Chattel Mortgages and the Floor Plan Notes were used as financing agreements by JDCI for HEL a) to acquire equipment, either by way of direct purchase of new or used equipment, by way of trade-in (effectively a sale of used equipment by the purchaser to HEL and a sale of new equipment by HEL to the purchaser) or to acquire repossessed units from retail customers to fulfill HEL's obligations under the Repossession Agreement or b) to refinance HEL equipment.

In the case of acquisitions, the particular unit is identified, a loan amount settled between JDCI and HEL, and an advance is made to the supplier of the unit, to payout a lender holding security over the unit or directly to HEL.

In the case of a refinancing, a loan amount was settled between JDCI and HEL and an advance was made to the credit of HEL that may or may not have been used to discharge a prior security interest.

For the financings set out in Schedule A as numbers 2-4, 6, 7, 9-14, 16-25, 27-29, 31, 32, 35-43, 45, 46, 48-54, and 55-63, 66 and 82, there is sufficient evidence to conclude that the value given by JDCI to HEL was indeed used to allow HEL to acquire rights in the collateral to support a PMSI.

For the financings set out in Schedule A as numbers 1, 15, 30, 33, 34, and 47, there is insufficient evidence to conclude that the value given by JDCI to HEL was indeed used to allow HEL to acquire rights in the collateral to support a PMSI, as it is not possible to

determine if a prior security interest was paid out or if the financing resulted in HEL expanding its asset base. The units financed may well have been in HEL's inventory of assets and not the subject of prior interests, or the loan proceeds may not have been applied to pay out prior interests.

In the case of the double financings the earlier financing in time or number 82 (in respect of financings 5 and 82), number 9 (in respect of financings 8 and 9) and number 66 (in respect of financings 26 and 66) satisfy the definition for a PMSI. It is not necessary in the circumstances to make a determination concerning the PMSI definition for the second financing for the double financings, as the auction proceeds in all cases for the respective units were insufficient to discharge the outstanding indebtedness for the first financing.

JDCI, as part of its financing process, charged HEL a documentation fee in the amount of \$50, which was added to the principal amount financed. Under the definition of PMSI "purchase price" and "value" include interest, credit costs and other charges payable for the purchase or loan credit. The documentation fee that comprises a component of JDCI's Claim is included in the PMSI definition of "purchase price" and "value" as either a credit cost or as another charge for the purchase or loan credit.

18. Proceeds

Subsection 29(1) of the PPSA provides a secured party with an automatic and statutory interest in the proceeds from the disposition of a secured asset by the debtor. While this right is automatic as against the debtor, the entitlement to proceeds must be perfected, in order to protect the secured party's entitlement as against competing creditors.

The Trustee has not made any determination as to JDCI's entitlement to proceeds with respect to other creditors as this is an issue of priority and not within the Trustee's mandate under the Claims Plan. However, the Trustee has outlined below the statutory requirements that must be met by a secured party in order to assert a claim to proceeds from the disposition of collateral as against other secured creditors.

The perfected status of a security interest in proceeds depends firstly on whether the security interest in the original collateral was perfected when the proceeds arose. If not, the secured party will have to perfect its security interest in the proceeds as original collateral either by registration or taking possession. If so, the question of whether the secured party must independently perfect its security interest in the proceeds depends on the method by which the security interest in the original collateral was perfected.

Subsection 29(3) provides for three instances where perfection in proceeds is automatic and continuous. A security interest in proceeds is a continuously perfected security interest where the interest in the original collateral is perfected by a registration of a financing statement under section 26 that:

- (a) includes a description of the proceeds that would be sufficient to perfect a security interest in original collateral of the same kind;
- (b) includes a description of the original collateral, where proceeds are of a kind that are within the description of the original collateral; or
- (c) includes a description of the original collateral, where the proceeds consist of money, cheques or deposit accounts in a bank, credit union, or similar financial institutions.

If proceeds do not fall into one of these categories, s. 29(4) of the PPSA requires registration with respect to the proceeds collateral within 15 days after such proceeds arise. Such registration would be in accordance with the same rules as the original collateral.

As indicated above, collateral descriptions are governed by ss. 23-24 of the Regulations. These rules extend to descriptions of collateral in the form of proceeds as well.

Note, as well, that the ability to assert a claim to proceeds is contingent upon two conditions. The debtor must have acquired rights in the proceeds, and the proceeds themselves must be traceable (s. 2 (ff)).

19. Additional Comments on Priorities

While it is not within the mandate of PWC to determine priorities, we nevertheless offer the following comments, in order to provide assistance to any creditors who may also have a valid and perfected security interest in the Asset(s) and wish to determine, for their own benefit, the relative ranking of security and creditors with respect to same:

PMSI Notices dated December 14, 1999 referred to in paragraph 8 state:

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, 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.

JDCI has provided with its reply materials, the affidavit of Ernest G. Reid, Q.C. sworn on October 16, 2002, indicating that the notices were sent by registered mail on December 14, 1999 to General Motors Acceptance Corporation of Canada, Limited, CIBC Equipment Finance Limited, Canadian Imperial Bank of Commerce, ABN AMRO Leasing, a Division of ABN AMRO Bank Canada and Bombardier Capital Leasing Ltd.

20. Auction Results

The Assets numbered 1-8, 10-43 and 45-63 were sold at the Receiver's auction on July 12, 2002, in Halifax, Nova Scotia. The Net amount obtained (bid amount less LVG buyer's premium) is as set forth in Schedule B. However, the proceeds from the sale of assets, net of liquidation costs, are insufficient to satisfy claims of secured creditors claiming an interest in each of the assets of the estate. Accordingly, no funds are available out of the proceeds from the sale of assets to satisfy any of the claims or unsecured creditors and the Trustee therefore has no prior claim to any of the assets.

SCHEDULE A

HICKMAN EQUIPMENT (1985) LIMITED
SCHEDULE 'A' OF FINAL DETERMINATION
JOHN DEERE CREDIT INC.

Asset #	Payout Mar 13/02	Per Diem	Dec Payment	Jan Payment	Interest on Dec and Jan Payments not received	Per Diem on Interest on Dec and Jan Payments not received	Total Debt
1	165,999.60	23.74	434.11	770.99	14.76	0.17	167,219.46
2	249,477.14	35.68	978.61	1,158.70	27.16	0.31	251,641.61
3	145,339.80	20.69	6,802.00	6,802.00	175.55	1.96	159,119.35
4	258,363.30	36.78	12,602.00	12,602.00	325.24	3.63	283,892.54
5	323,889.81	46.32					323,889.81
6	288,021.54	41.00	1,405.73	1,331.53	35.50	0.39	290,794.30
7	128,364.31	18.35					128,364.31
8	103,922.49	14.87					103,922.49
9	142,966.87	20.35	8,402.00	8,402.00	216.84	2.42	159,987.71
10	299,752.91	42.67	14,002.00	14,002.00	361.37	4.03	328,118.28
11	261,474.76	31.95					261,474.76
12	55,614.90	7.95					55,614.90
13	42,920.21	6.11	2,402.00	2,402.00	61.99	0.69	47,786.20
14	145,339.80	20.69	6,802.00	6,802.00	175.55	1.96	159,119.35
15	188,629.06	26.98	493.28	876.09	16.78	0.20	190,015.21
16	212,239.69	30.21	1,035.86	981.19	26.16	0.29	214,282.90
17	234,974.15	33.45	12,002.00	12,002.00	309.75	3.45	259,287.90
18	234,974.15	33.45	12,002.00	12,002.00	309.75	3.45	259,287.90
19	262,760.92	37.40	1,282.44	1,214.75	32.38	0.36	265,290.49
20	178,272.65	25.38	10,562.00	10,562.00	272.59	3.04	199,669.24
21	111,011.95	15.81	7,202.00	7,202.00	185.87	2.07	125,601.82
22	282,969.42	40.28	1,381.07	1,308.18	34.87	0.39	285,693.54
23	282,969.42	40.28	1,381.07	1,308.18	34.87	0.39	285,693.54
24	282,969.42	40.28	1,381.07	1,308.18	34.87	0.39	285,693.54
25	165,999.60	23.74	434.11	770.99	14.76	0.17	167,219.46
26	169,801.86	24.17	828.74	785.00	20.93	0.23	171,436.53
27	44,929.98	6.40	2,402.00	2,402.00	61.99	0.69	49,795.97
28	223,387.97	31.80	9,322.00	9,322.00	240.58	2.68	242,272.55
29	237,766.07	33.85	9,922.00	9,922.00	256.07	2.85	257,866.14
30	73,973.17	10.58	193.44	343.57	6.58	0.08	74,516.76
31	73,748.59	13.84	5,122.00	5,122.00	132.19	1.47	84,124.78

HICKMAN EQUIPMENT (1985) LIMITED
SCHEDULE 'A' OF FINAL DETERMINATION
JOHN DEERE CREDIT INC.

32	123,051.61	17.52	6,002.00	6,002.00	154.90	1.73	135,210.51
33	203,715.36	29.14	532.73	946.16	18.12	0.21	205,212.37
34	158,456.46	22.67	414.37	735.95	14.09	0.17	159,620.87
35	256,847.88	36.56	10,718.29	10,718.29	276.62	3.08	278,561.08
36	34,584.97	6.49	2,402.00	2,402.00	61.99	0.69	39,450.96
37	448,598.58	54.90					448,598.58
38	66,981.38	12.57	4,652.00	4,652.00	120.06	1.34	76,405.44
39	135,827.00	19.42	355.20	630.85	12.08	0.14	136,825.13
40	244,475.85	34.80	10,202.00	10,202.00	263.30	2.93	265,143.15
41	297,628.98	42.37	16,602.00	16,602.00	428.47	4.78	331,261.45
42	37,028.03	5.27	1,602.00	1,602.00	41.34	0.46	40,273.37
43	95,923.73	13.72	376.28	445.52	10.44	0.12	96,755.97
44							
45	155,942.07	22.30	611.70	724.27	16.98	0.19	157,295.02
46	277,409.88	39.49	12,002.00	12,002.00	309.75	3.45	301,723.63
47	226,344.81	32.37	591.91	1,051.26	20.13	0.24	228,008.11
48	393,867.80		12,563.86	12,563.86	324.25	3.61	419,119.77
49	393,867.80		12,563.86	12,563.86	324.25	3.61	419,119.77
50	38,609.98	5.49	2,287.48	2,287.48	59.04	0.66	43,243.98
51	288,021.54	41.00	1,405.73	1,331.53	35.50	0.39	290,794.30
52	92,258.41	13.14	5,122.00	5,122.00	132.19	1.47	102,634.60
53	149,679.27	21.31	8,002.00	8,002.00	206.52	2.30	165,889.79
54	192,031.21	27.33	937.23	887.77	23.67	0.26	193,879.88
55			6,160.00	83,702.08	978.48	12.93	90,840.56
56	128,689.12	18.32	7,202.00	7,202.00	185.87	2.07	143,278.99
57	216,799.72	30.86	10,602.00	10,602.00	273.62	3.05	238,277.34
58	228,180.67	32.48	9,522.00	9,522.00	245.75	2.74	247,470.42
59	145,339.80	20.69	6,802.00	6,802.00	175.55	1.96	159,119.35
60	190,707.46	27.15	9,302.00	9,302.00	240.07	2.68	209,561.53
61	306,243.24	43.59	17,002.00	17,002.00	438.79	4.89	340,686.03
62	296,244.67	42.37	1,162.06	1,375.91	32.25	0.37	298,814.89
63	84,918.32	12.09	4,142.00	4,142.00	106.90	1.19	93,309.22
64							
65							
66	171,531.24	24.53	672.86	796.68	18.67	0.21	173,019.45
82	275,148.79	39.16	17,402.00	17,402.00	449.11	5.07	310,401.90

HICKMAN EQUIPMENT (1985) LIMITED
SCHEDULE 'A' OF FINAL DETERMINATION
JOHN DEERE CREDIT INC.

Control	Serial Number	Year	EQ Description	Model	Make	Payout Mar 13/02	Per Diem	Dec Payment	Jan Payment
A	17246	1996	CRUSHER	1200				195,140.41	
B	41D695	1995	CRUSHER	1482				71,551.47	
1	FF0200X051172	1999	EXCAVATORS	200LC	JD	165,999.60	23.74	434.11	770.99
2	FF0330X080077	1998	EXCAVATORS	330LC	JD	249,477.14	35.68	978.61	1,158.70
3	06CR05244	2000	EXCAVATORS	320	CAT	145,339.80	20.69	6,802.00	6,802.00
4	5TJ02858	1995	CRAWLER DOZER	D8N	CAT	258,363.30	36.78	12,602.00	12,602.00
5	T0653GX880032	2000	FELLER BUNCHER	653G	JD	323,889.81	46.32		
6	DW744HX572946	1999	LOADERS	744H	JD	288,021.54	41.00	1,405.73	1,331.53
7	T0850CX834577	1997	DOZER	850C	JD	128,364.31	18.35		
8	FF892EX011705	1996	EXCAVATORS	892E	JD	103,922.49	14.87		
9	FF892EX011705	1997	EXCAVATORS	JD892E	JD	142,966.87	20.35	8,402.00	8,402.00
10	845H0602	1999	HARVESTER	845B	TIGER	299,752.91	42.67	14,002.00	14,002.00
11	IODH1027	2000	FORWARDER	1110NA	TJ	261,474.76	31.95		
12	CT7296	1991	FORWARDER	230A	TJ	55,614.90	7.95		
13	CB7835	1994	FORWARDER	230D	TJ	42,920.21	6.11	2,402.00	2,402.00
14	06CR05245	2000	EXCAVATORS	320	CAT	145,339.80	20.69	6,802.00	6,802.00
15	9J500289	2000	EXCAVATORS	320B	CAT	188,629.06	26.98	493.28	876.09
16	544B032885899	1999	FORWARDER	544B	FABTEK	212,239.69	30.21	1,035.86	981.19
17	546B-40-28894-99	1999	FORWARDER	546B	FABTEK	234,974.15	33.45	12,002.00	12,002.00
18	546C-66-29396-00	2000	FORWARDER	546C	FABTEK	234,974.15	33.45	12,002.00	12,002.00
19	546C362930800	2000	FORWARDER	546C	FABTEK	262,760.92	37.40	1,282.44	1,214.75
20	145-35027	1988	EXCAVATORS	EX200	HITACHI	178,272.65	25.38	10,562.00	10,562.00
21	FF0200X050548	1997	EXCAVATORS	200LC	JD	111,011.95	15.81	7,202.00	7,202.00
22	FF0200X500536	1999	HARVESTER	200LC	JD	282,969.42	40.28	1,381.07	1,308.18
23	FF0200X500923	1999	HARVESTER	200LC	JD	282,969.42	40.28	1,381.07	1,308.18
24	FF0200X500924	1999	HARVESTER	200LC	JD	282,969.42	40.28	1,381.07	1,308.18
25	FF02D0X051120	1999	EXCAVATORS	200LC	JD	165,999.60	23.74	434.11	770.99
26	FF0230X060319	1998	EXCAVATORS	230LC	JD	169,801.86	24.17	828.74	785.00
27	T0450GW809815	1995	CRAWLER DOZER	450G	JD	44,929.98	6.40	2,402.00	2,402.00
28	DW690EL562859	1997	EXCAVATORS	690E	JD	223,387.97	31.80	9,322.00	9,322.00
29	DW690EL565134	1998	EXCAVATORS	690E	JD	237,766.07	33.85	9,922.00	9,922.00
30	FF790EL010023	1992	EXCAVATORS	790E	JD	73,973.17	10.58	193.44	343.57
31	FF792DX010221	1997	EXCAVATORS	792D	JD	73,748.59	13.84	5,122.00	5,122.00

HICKMAN EQUIPMENT (1985) LIMITED
SCHEDULE 'A' OF FINAL DETERMINATION
JOHN DEERE CREDIT INC.

32	FF892EX007239	1993	EXCAVATORS	892E	JD	123,051.61	17.52	6,002.00	6,002.00
33	FF892EX012643	1998	EXCAVATORS	892E	JD	203,715.36	29.14	532.73	946.16
34	C10514	1998	EXCAVATORS	PC200-6	KOMATSU	158,456.46	22.67	414.37	735.95
35	AT4C761111995	1995	HARVESTER	TM T425B	TIMCO	256,847.88	36.56	10,718.29	10,718.29
36	CTT297	1992	EXCAVATORS	230	TJ	34,584.97	6.49	2,402.00	2,402.00
37	WC6808BX005005	2001	HARVESTER	608BH	TJ	448,598.58	54.90		
38	973115	1997	FORWARDER	610	TJ	66,981.38	12.57	4,652.00	4,652.00
39	993395	1999	FORWARDER	610	TJ	135,827.00	19.42	355.20	630.85
40	860-8220	1998	FORWARDER	860	VALMET	244,475.85	34.80	10,202.00	10,202.00
41	911C-4019	1998	HARVESTER	911C	VALMET	297,628.98	42.37	16,602.00	16,602.00
42	990097	1989	HARVESTER	990	TJ	37,028.03	5.27	1,602.00	1,602.00
43	72V13959	1991	MOTORGRADERS	140G	CAT	95,923.73	13.72	376.28	445.52
45	FF0200X050655	1998	EXCAVATORS	200LC	JD	155,942.07	22.30	611.70	724.27
46	FF0330X080964	2000	EXCAVATORS	330LC	JD	277,409.88	39.49	12,002.00	12,002.00
47	FF0330X080078	1998	EXCAVATORS	330LC	JD	226,344.81	32.37	591.91	1,051.26
48	BE350CT200325	2001	ARTICULATED HAULERS	350C	JD	393,667.80		12,563.86	12,563.86
49	BE350CT200326	2001	ARTICULATED HAULERS	350C	JD	393,667.80		12,563.86	12,563.86
50	FF050ZX240042	1998	EXCAVATORS	50	JD	38,609.98	5.49	2,287.48	2,287.48
51	DW744HX572461	1999	LOADERS	744H	JD	288,021.54	41.00	1,405.73	1,331.53
52	T0750CX825699	1996	CRAWLER DOZER	750C	JD	92,258.41	13.14	5,122.00	5,122.00
53	DW772CH567061	1998	MOTOR GRADERS	772CH	JD	149,679.27	21.31	8,002.00	8,002.00
54	T0850CX850222	1998	CRAWLER DOZER	850C	JD	192,031.21	27.33	937.23	887.77
55	FF892EX007221	1993	EXCAVATORS	892E	JD	128,689.12	18.32	7,202.00	7,202.00
56	FF892FX011283	1995	EXCAVATORS	892E	JD	216,799.72	30.86	10,602.00	10,602.00
57	FF992EX007040	1997	EXCAVATORS	892E	JD	228,180.67	32.48	9,522.00	9,522.00
58	FF892EX011686	1996	EXCAVATORS	892E	JD	145,339.80	20.69	6,802.00	6,802.00
59	06CR04706	2000	EXCAVATORS	320	CAT	190,707.46	27.15	9,302.00	9,302.00
60	FF892EX012095	1997	EXCAVATORS	892E	JD	306,243.24	43.59	17,002.00	17,002.00
61	FF0450X090408	1999	EXCAVATORS	450LC	JD	296,244.67	42.37	1,162.06	1,375.91
62	FF0450X09021	1997	EXCAVATORS	450LC	JD	84,918.32	12.09	4,142.00	4,142.00
63	DW690EL538314	1992	EXCAVATORS	690E	JD				
65	76A3939	1966	TRACTORS	D6C	CAT			\$800.00	\$10,898.07
66	FF0230X060319	1998	EXCAVATORS	230LC	JD	171,531.24	24.53	672.86	796.68
67	35NB6911	1992	TRUCKS	D350C	CAT	40,900.46	5.83	2,423.18	2,423.18

HICKMAN EQUIPMENT (1985) LIMITED
SCHEDULE 'A' OF FINAL DETERMINATION
JOHN DEERE CREDIT INC.

68	53Y03481	1985	CRAWLER DOZER	D&L	CAT	93,585.36	13.39	367.10	434.66
69	45197	1996	CRUSHER	3042	CEDARRAP				
70	11236	1996	CRUSHER	1200	ELIAY	194,682.94	27.71	9,800.00	133,500.76
71	546C-68-29445-00	2000	FORWARDER	546C	FABTEK	234,974.15	33.45	14,402.00	14,402.00
72	17CP005162	1998	EXCAVATORS	5X750	HITACHI	277,927.36	36.56	12,002.00	12,002.00
73	P00120X030801	1998	EXCAVATORS	120	JD	107,675.29	15.32	16,466.01	16,466.01
74	P00160X040198	1997	EXCAVATORS	160LC	JD	78,635.38	11.20	5,252.00	5,252.00
75	FF0200X050673	1998	EXCAVATORS	200LC	JD	92,952.08	13.23	5,102.00	5,102.00
76	FF0200X502047	2001	EXCAVATORS	200LC	JD	141,509.98	20.14	5,202.00	5,202.00
77	T0310DG789868	1993	BACKHOELOADERS	316D	JD	18,951.92	2.70	690.66	654.21
78	FF0450X090410	1999	EXCAVATORS	450LC	JD	243,346.90	34.64	1,402.00	1,402.00
79	FF490EX025278	1994	EXCAVATORS	490E	JD	71,509.84	10.18	18,002.00	18,002.00
80	DW544GD558724	1996	LOADERS	544GTC	JD	78,632.59	11.19	4,002.00	4,002.00
81	DW644GB542037	1993	LOADERS	644G	JD	101,379.94	14.50	3,402.00	3,402.00
82	P0653GX880032	2000	HARVESTER	653G	JD	275,148.79	39.16	397.68	470.86
83	DW690EL563780	1997	EXCAVATORS	690D	JD	164,469.49	23.41	17,402.00	17,402.00
84	DW690EL557759	1996	EXCAVATORS	690E	JD	100,099.46	14.25	10,402.00	10,402.00
85	DW690EL547632	1994	EXCAVATORS	690E	JD	55,785.54	7.94	5,602.00	5,602.00
86	FF590DX002664	1997	EXCAVATORS	JD 590D	JD	71,500.46	10.18	3,122.00	3,122.00
87	DW690EL564951	1997	HARVESTER	JD 690E	JD	107,233.68	15.27	4,202.00	4,202.00
88	1270B1364	1997	HARVESTER	1270B	JD	144,012.79	27.03	6,302.00	6,302.00
89	WJ1710X000347	2001	FORWARDER	1710	JD	491,027.20	60.29	10,002.00	10,002.00
90	644S095E	1997	FORWARDER	644	VALMET	57,644.72	8.21	281.34	266.49
91	6CRO0908	1997	EXCAVATORS	320L	CAT	106,576.94	20.00	7,402.00	7,402.00
92	106032	1998	FORWARDER	1010B	TJ	99,377.73	18.64	6,902.00	6,902.00

Wholesale
Power Plan
Legal
Total

SCHEDULE B

Schedule "B"

Asset Number from Schedule "A"	Serial Number	Auction Number	Auction Proceeds	JDCI Debt
1	FF0200X051172	C001586	199,500	167,219.46
2	FF0330X080077	C001546	150,000	251,641.61
3	06CR05244	C001340	140,000	159,119.35
4	5TJ02858	C001226	165,149	283,892.54
5 (also financed as item #82)	T0653GX880032	C001653	180,000	323,889.81
6	DW744HX572946	C001485	120,000	290,794.30
7	T0850CX834577	C001655	82,500	128,364.31
8 (also financed as item #9)	FF892EX011705	C001652	40,000	103,922.49
9	FF892EX011705	C001652		159,987.71
10	845H0602	C001102	118,750	328,118.28
11	IODHI027	C001118	190,000	261,474.76
12	CT7296	C001654	25,000	55,614.90
13	CB7835	C00601	31,000	47,786.20
14	06CR05245	C001341	135,000	159,119.35
15	9JS00289	C001532	67,500	190,015.21
16	544B032885899	C001493	65,000	214,282.90
17	546B-40-28894-99	C001230	75,000	259,287.90
18	546C-66-29396-00	C001231	145,000	259,287.90
19	546C562930800	C001494	80,000	265,290.49
20	145-35027	C00959	55,000	199,669.24
21	FF0200X050548	C00852	72,200	125,601.82
22	FF0200X500536	C001495	150,000	285,693.54
23	FF0200X500923	C001496	120,000	285,693.54
24	FF0200X500924	C001497	60,000	285,693.54
25	FF02DOX051120	C001521	86,450	167,219.46

Asset Number from Schedule "A"	Serial Number	Auction Number	Auction Proceeds	JDCI Debt
26 (also financed as item #66)	FF0230X060319	C001491	104,500	171,436.53
27	T0450GW809815	C001158		
28	DW690EL562859	C001398	57,500	49,795.97
29	DW690EL565134	C001399	24,000	242,272.55
30	FF790EL010023	C00226	30,000	257,866.14
31	FF792DX010221	C00898	39,000	74,516.76
32	FF892EX007239	C001603	58,900	84,124.78
33	FF892EX012643	C00345	40,000	135,210.51
34	C10514	C001364	145,000	205,212.37
35	AT4C761111995	C001400	65,000	159,620.87
36	CT7297	C00899	24,000	278,561.08
37	WC608BX005005	C001531	21,000	39,450.96
38	973115	C00900	300,000	448,598.58
39	993395	C001404	40,000	76,405.44
40	860-8220	C001401	95,000	136,825.13
41	911C-4019	C001045	30,000	265,143.15
42	990097	C001406	50,000	331,261.45
43	72V13959	C001553	5,000	40,273.37
44			95,000	96,755.97
44				-
45	FF0200X050655	C001547		-
46	FF0330X080964	C001381	110,000	157,295.02
47	FF0330X080078	C00356	199,500	301,723.63
48	BE350CT200325	C001365	133,000	228,008.11
49	BE350CT200326	C001366	225,000	419,119.77
50	FF050ZX240042	C001474	230,000	419,119.77
51	DW744HX572461	C001373	30,875	43,243.98
52	T0750CX825699	C001022	120,000	290,794.30
53	DW772CH567061	C001159	80,000	102,634.60
54	T0850CX850222	C001392	95,000	165,889.79
			120,000	193,879.88

Asset Number from Schedule "A"	Serial Number	Auction Number	Auction Proceeds	JDCI Debt
55	FF892EX007221	C00278	45,000	90,840.56
56	FF892FXOI 1283	C00285	40,000	143,278.99
57	FF992EX007040	C001295	100,000	238,277.34
58	FF892EXOI 1686	C001396	40,000	247,470.42
59	06CR04706	C001339	135,000	159,119.35
60	FF892EX012095	C001696	80,750	209,551.53
61	FF0450X090408	C001023	150,000	340,686.03
62	FF0450X090021	C001545	150,000	298,814.89
63	DW690EL538314	C001042	38,000	93,309.22
64			-	-
65	76A3939			-
66	FF0230X060319	C001491		173,019.45
82	P0653GX880032	C001653		310,401.90

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