

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE
JUSTICE HOY

) WEDNESDAY, the 7th DAY OF
) SEPTEMBER, 2005

B E T W E E N:

GENERAL MOTORS CORPORATION

Applicant

- and -

TIERCON INDUSTRIES INC.

Respondent

O R D E R

THIS MOTION, made by Galanda Properties Inc. and Blackridge Properties Inc. (together "Galanda") pursuant to the Notice of Motion dated June 7, 2005 for, *inter alia*, possession of premises subject to the lease between Galanda and Tiercon Industries Inc. (the "Landlord's Motion"), this cross-motion made by Zeifman Partners Inc. in its capacity as the Court appointed receiver and manager of all of the property and assets and undertaking of Tiercon Industries Inc. (the "Receiver") pursuant to the Notice of Motion dated June 22, 2005 for, *inter alia*, a declaration that it can remain in occupation and possession of the Plant (as defined in the Second Report of the Receiver, dated June 22, 2005 (the "Second Report")) (the "Receiver's Cross-Motion"), and this cross-motion made by Royal Bank of Canada, in its capacity as agent (in such capacity, the "Agent") for The Bank of Nova Scotia, National Bank of Canada, Comerica Bank and Royal Bank of Canada (collectively, the "Senior Lenders") pursuant to the Notice of Motion dated June 24, 2005 for a declaration that, should Galanda obtain relief

sought by it, the Agent is entitled to exercise a contractual right of access to the Plant (the "Agent's Cross-Motion"), were heard on the 17th day of August, 2005 at the Courthouse, at 393 University Avenue, in the City of Toronto.

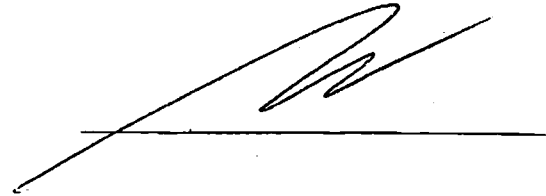
ON READING the Affidavit of John Bambery sworn April 15, 2005, the Affidavit of Galliano Tiberini sworn June 6, 2005, the Affidavit of John Bambery sworn June 21, 2005, the Affidavit of Tony Zaspalis sworn June 22, 2005, the Second Report, the Affidavit of Galliano Tiberini sworn June 27, 2005, the transcript of the cross examination of Galliano Tiberini conducted on July 21, 2005, the transcript of the cross examination of Tony Zaspalis conducted on July 21, 2005 and the transcript of the cross examination of John Bambery conducted on July 21, 2005;

AND UPON HEARING submissions for counsel for the parties Galanda, the Receiver, General Motors Corporation ("GM") and the Agent and reading the *facta* delivered, reserving until September 7, 2005 to deliver reasons;

1. **THIS COURT ORDERS** that the Landlord's Motion is dismissed.
2. **THIS COURT ORDERS** that the Receiver's Cross-Motion is adjourned to a date to be fixed with the Commercial List Office, if the parties are unable to resolve the extent of the obligations of the Receiver under the lease between Galanda and Tiercon Industries Inc. relating to the Receiver's possession of the leased premises.
3. **THIS COURT ORDERS** that the Agent's Cross-Motion is rendered moot by the dismissal of the Landlord's Motion.
4. **THIS COURT ORDERS** that, if the parties are unable to agree on costs, then the

parties, other than Galanda, may make brief written submissions within 15 days of the date of this Order and Galanda may provide brief written submissions in response within 15 days thereafter.

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JOSEPH P VAN TASSEL
REGISTRAR

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

NOV 04 2005



PER/PAR: