

Schedule "A"

Court File No. 05-CL-5854

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE

) MONDAY, THE 31<sup>st</sup>

JUSTICE LEDERMAN

) DAY OF OCTOBER, 2005

BETWEEN:

GENERAL MOTORS CORPORATION

Applicant

- and -

TIERCON INDUSTRIES INC.

Respondent

ORDER

THIS 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"), for an order, *inter alia*:

- a) approving the fifth report of Zeifman Partners Inc., in its capacity as court-appointed Receiver and Manager (the "Receiver") of the property, assets and undertaking of Tiercon Industries Inc. ("Tiercon"), dated October 25, 2005 (the "Fifth Report");
- b) authorizing and directing the Receiver to enter into an auction services agreement with Maynards Industries Ltd. (the "Auctioneer") made as of October 25, 2005 (the "Auction Agreement");
- c) vesting the right, title and interest of Tiercon in and to the Assets (as defined in the Auction Agreement) in the purchasers thereof, free and clear of all claims;
- d) authorizing and directing the Receiver to distribute the proceeds from the sale of the Assets in accordance with this order; and

- e) granting such further and other relief as counsel may advise and this Honourable Court may permit,

was heard this day at 393 University Ave., Toronto, Ontario.

ON READING the Fifth Report and on hearing the submissions of counsel for the Agent, counsel for the Receiver and counsel for Galanda Properties Inc. and Blackridge Properties Inc., and GE Canada Leasing Services Company, no one else appearing although duly served as appears from the affidavit of service of Wilma Leo dated October 26, 2005, *filed and subject to the endorsement made this day,*

*fn 1*

#### SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of motion, the Fifth Report and motion record in respect of this motion be and it is hereby abridged and that the motion is properly returnable today and further that the requirement for service of the notice of motion and motion record herein upon any other parties, other than those served, is hereby dispensed with and that the service of the notice of motion, the Fifth Report and the motion record herein is hereby validated in all respects and deemed sufficient for all purposes.

#### THE FIFTH REPORT

2. **THIS COURT ORDERS** that the Fifth Report, and the activities of the Receiver as described in the Fifth Report, be and the same are hereby approved.

#### DEFINITIONS

3. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the meanings ascribed thereto in the Auction Agreement.

4. **THIS COURT ORDERS** that:

- (a) "Claims" means any and all rights, claims, benefits, interests, hypothecs, priorities, pledges, security interests (whether contractual, statutory or otherwise) charges (including court ordered charges), mortgages, estates, trusts or deemed trusts (whether contractual, statutory or otherwise), liens (whether

contractual, statutory or otherwise), assignments, executions, writs of seizure and sale, judgments, options, adverse claims, levies, agreements, taxes, rights of distress, set-off (whether legal, equitable or contractual), liabilities (direct, indirect, absolute or contingent) or other claims (including claims provable in bankruptcy) and encumbrances, whether or not they have attached or have been perfected, registered or filed and whether secured, unsecured or otherwise, or any other rights, rights of use, disputes and debts, by or of all persons or entities of any kind.

- (b) "Claimant" means any and all persons, whether acting in their capacity as principal or as agent, trustee, executor, administrator or other legal representative, who have or may in the future have a Claim, including the beneficiaries of all charges approved or created in orders made in these proceedings, as amended from time to time.

#### APPROVAL OF AUCTION AGREEMENT

5. **THIS COURT ORDERS AND DECLARES that:**

- (a) the Auction Agreement (including all appendices attached thereto) and all steps or actions contemplated therein are hereby approved;
- (b) the powers of the Receiver as set out in the Order of this Court made by the Honourable Madam Justice Greer on April 15, 2005 as subsequently amended pursuant to the Order of the Honourable Mr. Justice Lederman dated October 6, 2005 (the "Receivership Order") be and are hereby expanded, *nunc pro tunc* to authorize and direct the Receiver to enter into the Auction Agreement, to complete the Transaction contemplated thereunder and to take such steps and sign such ancillary or related documents as are necessary or incidental for the completion of the Auction Agreement or in furtherance of this Order. For greater certainty, notwithstanding paragraphs 36 and 37 of the Receivership Order, and without limiting or derogating from the powers of KPMG contained therein, the Receiver and the Auctioneer are hereby authorized and directed to sell the Assets as contemplated under the Auction Agreement; and

- (c) the Receiver be and it is hereby authorized to enter into such amendments to the Auction Agreement (in accordance with the amendment provisions of the Auction Agreement) as it may consider necessary and appropriate, subject to the Receiver obtaining the written consent of the Agent, and any reference in this Order to the Auction Agreement shall be deemed to be a reference to the Auction Agreement, as so amended.

#### SEALING OF AUCTION SERVICES AGREEMENT

6. **THIS COURT ORDERS** that the Agent be granted leave, *nunc pro tunc*, to file an unredacted version of the Auction Agreement with this Court, which shall be kept in a sealed envelope marked "Confidential sealed by Court Order" in the court file, and not be made available publicly.

#### VESTING OF ASSETS

7. **THIS COURT ORDERS** that upon the Auctioneer completing the sale of any of the Assets to a purchaser, in accordance with the terms of the Auction Agreement, and delivering a bill of sale to the purchaser (the "Purchaser Bill of Sale"), all right, title and interest of Tiercon in and to the asset(s) described in the Purchaser Bill of Sale shall be vested in such purchaser, free and clear of all Claims.
8. **THIS COURT ORDERS** that, upon the Receiver delivering a bill of sale to the Auctioneer in accordance with section 2.17 of the Auction Agreement (the "Auctioneer Bill of Sale"), all right, title and interest of Tiercon in and to the assets described in the Auctioneer Bill of Sale, shall be vested in the Auctioneer, free and clear of all Claims.
9. **THIS COURT ORDERS** that, notwithstanding paragraphs 7 and 8 above, but subject to paragraph 10 below, nothing in this Order shall affect the right or relative priority of any Claimant to assert a claim against the proceeds of sale of such asset(s) to which it asserts a claim and such proceeds shall stand in the place and stead of the asset(s).

**PUT ASSETS**

10. **THIS COURT ORDERS** that, subject to the Receiver, on behalf of Tiercon, acquiring title to the Put Assets from GE Capital Canada Leasing Services Inc. ("GE Capital Leasing") as contemplated by Section 2.3(3) of the Auction Agreement, GE Capital Leasing shall be granted a first ranking charge (the "GE Charge") over the proceeds generated from the sale of the Assets that are payable to the Receiver pursuant to the Auction Agreement in an amount equal to the Option Amounts (as defined in paragraph 11 (a) below).

**DISTRIBUTION OF PROCEEDS**

11. **THIS COURT ORDERS** that the Receiver shall forthwith distribute, free and clear of all Claims, the funds from the Account which the Receiver is entitled to receive pursuant to section 2.5 of the Auction Agreement as follows:

- (a) to GE Capital Leasing, an amount equal to the aggregate purchase option amounts stipulated in the lease agreements in respect of the Put Assets plus \$5,000 for GE Capital Leasing's legal costs and other expenses in connection with the sale of the Put Assets to Tiercon (collectively, the "Option Amounts"); and
- (b) to the Senior Lenders, all remaining funds from the Account from time to time.

**INSPECTION OF PREMISES**

12. **THIS COURT ORDERS** that on November 1, 2005, representatives of the Auctioneer, Galanda Properties Inc. ("Galanda"), General Motors Corporation ("GM"), and the Senior Lenders (collectively, the "Inspection Parties"), acting reasonably, shall each be entitled to attend at 950 Service Road, Stoney Creek, Ontario (the "Premises") to complete an inspection thereof with the Receiver (the "Initial Inspection"). Within 7 days of the Initial Inspection the Receiver shall prepare and deliver a draft report to the Inspection Parties describing the condition of the Premises as at the time of the Initial Inspection. The Inspection Parties shall each be entitled to provide their respective comments on the draft report in writing, with copies to all Inspection Parties, within 3 business days and, upon receiving such

comments, the Receiver shall finalize the report in respect of the Initial Inspection (the "Initial Inspection Report").

13. **THIS COURT ORDERS** that, no later than the last day of the Liquidation Period, the Inspection Parties, acting reasonably, shall each be entitled to attend at the Premises to complete a further inspection thereof with the Receiver (the "Final Inspection"). Within 7 days of the Final Inspection the Receiver shall prepare and deliver a draft report to the Inspection Parties describing the condition of the Premises as at the time of the Final Inspection including, but not limited to, a comparison of the condition of the Premises as set out in the Initial Inspection Report. The Inspection Parties shall each be entitled to provide their respective comments on the draft report in writing, with copies to all Inspection Parties, within 3 business days and, upon receiving such comments, the Receiver shall finalize the report in respect of the Final Inspection.

#### **GENERAL**

14. **THIS COURT ORDERS** that, notwithstanding:

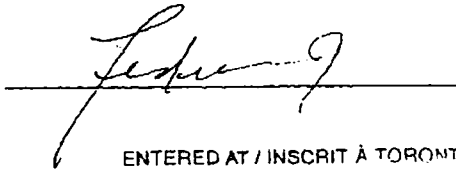
- (a) the pendency of these proceedings; and
- (b) the pendency of any application for a bankruptcy order issued at any time pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") in respect of Tiercon, any bankruptcy order issued pursuant to any such application or any assignment in bankruptcy filed by or on behalf of Tiercon; and
- (c) the provisions of any federal or provincial statute,

the Auction Agreement and the Transaction contemplated thereby, including the vesting of the Assets in the applicable purchaser, free and clear of all Claims pursuant to this Order, shall be binding upon all Claimants and any trustee in bankruptcy that may be appointed in respect of Tiercon and shall not be void or voidable by any Claimant, nor shall they constitute nor be deemed to be settlements, fraudulent preferences, assignments, fraudulent conveyances or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor do they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

15. **THIS COURT ORDERS** that the Receiver is relieved from compliance with the provisions of Part V of the PPSA, and from any and all other provisions of law relating to notice, statutory or otherwise, which a creditor or other party is required to issue in order to dispose of the collateral of a debtor in connection with the Transaction contemplated in the Auction Agreement.

16. **THIS COURT ORDERS** that the sales of the Assets contemplated in the Auction Agreement shall be exempt from any applicable bulk sales legislation in any jurisdiction in which the Assets are situate, including without limitation, the Ontario *Bulk Sales Act*, R.S.O. 1990, c. B-14, as amended, and are in all respects judicial sales for the purposes of such bulk sales legislation.

17. **THIS COURT HEREBY** requests the aid and recognition of any court, tribunal or administrative body of any province of Canada or of the United States of America to give effect to the terms of this order. All courts and administrative bodies of all jurisdictions are hereby respectfully requested to make such orders and to provide such assistance they may deem necessary or appropriate.



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PER/PAH



For greater certainty, nothing in this Order shall be deemed to affect the rights (if any) that Gralanda Properties Inc. and Blackridge Properties Inc. as landlord to Tiercon Industries Inc. may have against the Receiver or any other person to require the Receiver or any other person to restore or repair the leased premises.

Notwithstanding anything contained in the Order, Maynards shall not, without further order of the court or the agreement of Gralanda, sell any of the assets listed below. Gralanda shall file affidavit evidence within 10 days setting out the basis for its position that Maynards is not entitled to sell the listed assets and, if there is no agreement, a motion can be brought by Senior lenders to resolve this issue.

Nothing in this order shall be deemed to abrogate anything contained in paragraph 22 of the endorsement of Hwy J. dated September 7, 2005

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Schedule 1.1(7)  
Exhibit B

Tiercon Industries Inc.  
950 South Service Road, Stoney Creek, Ontario L8E 6A2  
Mould Support Equipment

ITEM#	QTY	ITEM DESCRIPTION
		S/N: 930533091
57	1	Central Drying Station (Beside HP #24) Unidyne "DHD-25" Dehumidifying Hopper Dryer - S/N: 158875.01-0697, (2) est. 800 lbs Hoppers, Filter System, Unidyne 3,000 lbs. Hopper - S/N: F41158875.06, Mould-tek Vacuum Loader Mounted on Fabricated Structure at Second Level
58	1	Nucon Whittmann Desecant Dryer Station w/est. 2,000 lbs. Nucon Hopper w/Nucon Top Loaded Vacuum Loader, Unidyne "923266" 3,000 lbs. Hopper w/Nucon Top Load Vacuum Loader, Whittmann Dehumidifier Dryer, Nucon 4-Bin Blending Station (2) Nucon Top Mounted Vacuum Loaders, Nucon est. 1,000 lbs. Hopper w/Nucon Vacuum Loader, Siemen "Simatic PLC" Control Panel, On Floor Level - Nucon, 2,500 lbs. Tipper, Nucon, 2,500 lbs Hopper and Nucon Whittmann "System A and B" Cone Bottom Hoppers, (3) Nucon Whittmann Vacuum Pump systems
59	9	Bulk Storage Silos (Located Outside) All Welded Steel Construction, (2) est, 10" Diameter x 60" Height, (3) est. 10" Diameter x Est. 40" Height
60	Lot	Regrind Department - Consisting of: Rotogran "3335SP" 100HP Granulator - S/N: MT3336SPBF9608119 w/33" x 36' Opening Insulated Sound Enclosure
61	1	Rotogran "W01418SP" 25HP Granulator S/N: MT1418SP0211134W0 w/ 14" x 18" Opening, Insulated Sound Hood
62	1	Cardinal 4' x 6" Portable Platform Scale w/Digital Read-out

Tiercon Industries Inc.  
950 South Service Road, Stoney Creek, Ontario L8E 6A2  
Plant Equipment

ITEM#	QTY	ITEM DESCRIPTION
		41" x 96" Slide-Out T-Slotted Bolster, 100" Maximum Daylight, est. 48" Stroke, 20Hp Hydraulic Power Pack, Operator Control Panel, Top Mounted Hydraulic Package.
13	1	Mas "VR8A" Radial Arm Drill S/N: 154160201 w/8' Maximum Swing, #6 Morris Taper Spindle, 9 to 1,120 RPM Spindle Speed Power Clamping, Power Elevation, 30" x 40" x 20" T-Slotted Table.
14	Lot	Assorted Machine Shop Equipment – Consisting of: Delta "31-731" 6" Belt 12" Disc grinder – S/N: 02J78229, Baldor 1-1/2HP Double-End pedestal Grinder, 5' x 10' Steel Tables w/ Vise, Slings, Hoists, Caged Off Parts Area w/ Mezzanine Racking and Shelving
15	1	Munk 45-Ton Double Grinder Top-Running Radio Controlled Bridge Crane S/N: 01-2954 w/ (2) 45-Ton Hoists, est. 45' Span
16	1	Munk 30-Ton Double Grinder Top-Running Radio and Pendant Controlled Bridge Crane S/N: 01-2956
17	1	Munk 20/10-Ton Double Grinder Top-Running Radio and Pendant Controlled Bridge Crane S/N: 01-2955 w/ est. 36' Span, 10-Ton and 20-Ton Hoists
18	1	Tennant "515SS" Electric Ride-On Floor Sweeper w/ Scrubbing Attachment
19	128	Sections 4' x 20' 3-Tier Racking
20	30	Sections 4' x 16' 3-Tier Racking

Schedule 1.1(7)  
Exhibit D

Tiercon Industries Inc.  
950 South Service Road, Stoney Creek, Ontario L8E 6A2  
Plant Equipment

ITEM#	QTY	ITEM DESCRIPTION
21	4	Sections 4' x 16' x 4' Racking
22	7	Steel 5' x 5' x 10' 4-Tier Die Racks
23	2	Steel 5' x 10' x 10' 5-Tier Double Die Racks
24	1	Hotsy "771" Portable Steam Washer S/N: H1202-40861
25	Lot	(2) Parker Portable Filtration Pumps, Shop Vac, Samson Portable Grease Dispenser and Miscellaneous
26	1	Avery "CLE" 1,500 Kg. portable Platform Scale S/N: B633301-5
27	1	Freeze Co. System "PNC-120" Cooling Tower Chilling System S/N 10275 w/ (3) 40HP Pumps, 2002 Kenzoid "VORISAND" 29-Gallon Filter System - S/N: 0216086
28	1	1996 Super Changer "UFX-91-5-HP269" Koolrad-Tranter Heat Exchanger S/N: 0006-2 w/ 35.44" x 36.52" Plate Rack, (2) Incline Filters
29	1	Freeze Co. "PNL-0090 Series TIBACON-2" Cooling Tower Chilling System S/N: 00014148E w/ (5) 10HP Pumps
30	1	Compare Oil Water Separator
31	1	Water Sand Filter
32	1	Freeze Co. "PNL-00150 Series TIBACON-1"

Schedule 1.1(7)  
Exhibit D

Tiercon Industries Inc.  
950 South Service Road, Stoney Creek, Ontario L8E 6A2  
Plant Equipment

ITEM#	QTY	ITEM DESCRIPTION
		Cooling Tower Chilling System S/N: 00014149E
		w/ (3) 15HP and (3) 20HP Pumps
33	1	Freeze Co. "ALR-TC-005 Series Alarm Panel" Central Alarm System Panel S/N: D00112166E
34	1	Quincy "50" 50HP Air Compressor S/N: N/A
35	1	Pneumatech "AD250" 250 SCFM 150 PSI Non-Cycling Refrigerated Air Dryer S/N: 9908-TR131837P-ST w/ (2) Inline Filters
36	2	Air Storage tank
37	1	Nucon Wiltmann 10HP Vacuum Loader System w/ Cyclone
38	1	Mtek "UP1000" Vacuum Pump S/N: 19893 w/ 10HP Cyclone
39	5	Mould-Tek "VP1000" Vacuum Pump S/N: 9125, 18773, 9126, 18439, N/A w/ 10HP Cyclones
40	1	Universal Handling "209-85 Compactor" S/N: CC2-10-2-88 w/ Hydraulic Unit and Hopper
41	1	2002 Marathon "RJ-550" Ram Jet Cardboard Compactor S/N: 310701 w/ 25' x 25' Wire Mesh Cage (8' High) w/ Door
42	17	Pedestal Fans

Schedule 1.1(7)  
Exhibit D

Tiercon Industries Inc.  
950 South Service Road, Stoney Creek, Ontario L8E 6A2  
Plant Equipment

ITEM#	QTY	ITEM DESCRIPTION
43	1	Sorting Scale "825" 50 x .005 lbs. Digital Scale S/N: 14312
44	1	1997 Kleton Manufacturing "520" 270 kg. Forklift Platform
45	1	Bond Pak above ground lift, HD-12SS, 12,000, Serial 50555, Power Unit No 1466, 220V/18, a) cable length 128" b) 191-1/2" c) 297-1/2" d) 360-1/1", cable diameter 1/2"-7/8"
46	1	Chevrolet K-10 4X4 Pick Up Truck, VIN #1GCE K14V 72Z1 8529 9
47	1	Berg Chilling System, Model 1T6A8 - 3(30) - 3(40), 575 volts, 60 cycle, 197 amps, S/N 1T7370-1095 and sand filter
48	1	CompAir 50hp Cyclone compare 6000, Model 6050COH, S/N V9C31961/BR
49	1	CompAir Model K-625A Compressor, S/N C-10890-2
50	1	Pneumatech non-cycling refrigerator air dryer, Model AD-750, S/N 9908-TR131837P-ST
51	2	Berg Chilling System Model WCS-70-2, 575 Volts, 60 Cycles, 80 Amps, 3 Phase, S/N W7367-1095
52	1	Berg Chilling System Model WCS-105-3, 575 Volts, 60 Cycles, 120 Amps, 3 Phase, S/N W7366-1095
53	1	Federal Pioneer 4000 AMP Electrical Service Panel and Outside Transformer
54	1	Federal Pioneer Main Electrical Panel and

Schedule 1.1(7)  
Exhibit D

Tiercon Industries Inc.  
950 South Service Road, Stoney Creek, Ontario L8E 6A2  
Plant Equipment

ITEM#	QTY	ITEM DESCRIPTION
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		Outside Transformer
55	1	Federal Pioneer Main Electrical Panel and Outside Transformer
56	1	Genie 2 Man - 34/22 Portable Lift

Court File No: 05-CL-5854

Proceeding commenced at Toronto

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