APPENDIX “C”

OPI Aktiebolag

Org nr/Reg no 556159—8078

STYRELSENS FÖRSLAG TILL BESLUT OM NYEMISSION
PROPOSAL BY THE BOARD TO DECIDE ABOUT A NEW SHARE ISSUE

Otterbäcken 2003-11-03

Vid extra bolagsstämma föreslås aktiekapitalet öka enligt följande.
It is proposed that the extra general meeting will decide to increase the share capital in the following way.

1. Bolagets aktiekapital om 100 000 kronor skall ökas med 100 000 kronor till 200 000 kronor.
   The share capital of the company of SEK 100.000 will be increased with SEK 100.000 to SEK 200.000.

2. Bolaget skall utge 1 000 aktier.
   The company will issue 1000 shares.

3. De förutvarande aktieägarna skall ha företrädesrätt att teckna de nya aktierna i förhållande till tidigare aktieinnehav. Företrädesrätten ska begagnas senast 2003-11-03.
   The present shareholder has preferential right to subscribe for the new shares in relation to their present shareholdings. The preferential right has to be used at latest 2003-11-03.

4. För aktie skall betalas genom kvittning med det nominella beloppet senast 2003-11-03. Akties nominella belopp är 100 kronor. Därtill skall betalas en överkurs om 10 750 kronor per aktie.
   For each share the payment will be made through a set-off with the face value at latest 2003-11-03. The face value of the share is SEK 100. Besides this payment a premium of SEK 10 750 has to be paid for each share.

5. Teckning av aktie skall ske vid bolagsstämma.
   Subscription of the shares will be done at the extra general meeting.

6. Överteckning av aktier kan ej ske.
   Over-subscription cannot happen.

7. De nya aktierna berättigar till andel i vinst från och med innevarande räkenskapsår.
   The new shares will entitle to participation in the profit from present financial year.

Aktietecknarna erinras om att bolagsordningen innehåller hembudsklausul.
The subscribers will be reminded that the articles of association includes a pre-emption clause.

Otterbäcken 2003-11-03

OPI Aktiebolag

Robert Tozer

OPI Aktiebolag

Org nr/Reg no 556159-8078

KVITTNINGSAVTAL
AGREEMENT FOR SET-OFF

Otterbäcken 2003-11-03

Mellan bolaget 504040 N.B. Ltd och OPI Aktiebolag har denna dag träffats följande avtal.
Between the company 504040 N.B.Ltd and OPI Aktiebolag has the following agreement been made at this day.

1. Bolaget 504040 N.B. Ltd överlåter till OPI Aktiebolag sin fordran till ett värde om 10 850 000 kronor mot att bolaget 504040 N.B.Ltd tilldelas 1 000 aktier i OPI Aktiebolag.
The company 504040 N.B.Ltd transfers its claim of SEK 10 850 000 in exchange of 1000 shares in OPI Aktiebolag.

2. Kvittningen ska ske när OPI Aktiebolags bolagsstämma beslutat om att nyemissionen ska ske enligt upprättat förslag.
The set-off will be fulfilled when the extra general meeting of OPI Aktiebolag has decided that the new share issue will be fulfilled according to the proposal by the board.

3. Detta avtals giltighet förutsätter att OPI Aktiebolags extra bolagsstämma godkänner det.
The validity of this agreement is based upon the acceptance of this agreement by the extra general meeting in OPI Aktiebolag.

4. Detta avtal har upprättats i två exemplar varav 504040 N.B.Ltd och OPI Aktiebolag tagit var sitt.
This agreement has been prepared in two duplicates, where 504040 N.B.Ltd has get one duplicate and OPI Aktiebolag has get one duplicate.

Otterbäcken 2003-11-03

504040 N.B.Ltd

Robert Tozer

OPI Aktiebolag

Robert Tozer

OPI Aktiebolag
Org nr / *Reg no.* 556159-8078

EXTRA BOLAGSSTÄMMA
EXTRA GENERAL MEETING

PROTOKOLL / *MINUTES*, Otterbäcken, 2003-11-03

Närvarande *Present*	**Aktier** *Shares*	**Antal röster** *Votes*
504040 N.B. Ltd genom/*represented by*		
Robert Tozer	1 000	1 000
Per-Erik Lövgren	0	0
	1 000	**1 000**

1. Stämman utsåg till
   Appointed by the extra general meeting as

Ordförande: *Chairman:*	Robert Tozer
Protokollförare: *Secretary:*	Per-Erik Lövgren
Justeringsman: *Person to verify the minutes:*	Robert Tozer

2. Stämman beslöt att godkänna upprättad aktieägarförteckning som röstlängd.
   The extra general meeting approved the list of shareholders as the voting list.

3. Samtliga aktier var representerade och stämman förklarades beslutsför.
   All shares were represented and the extra general meeting was declared as having a quorum.

4. Stämman beslöt att godkänna dagordningen.
   The extral general meeting approved the agenda.

5. Stämman beslöt att anta styrelsens förslag till nyemission, vilket innebär en ökning av aktiekapitalet med 100.000 kronor, se bilaga.
   The extra general meeting decided to adopt the proposal by the board for a new share issue, which means an increase of the share capital with SEK 100.000, see appendix.

6. Stämman noterade att en kopia av senaste årsredovisning med anteckning om vinstdisposition och fastställelseintyg samt revisionsberättelse fanns tillgängliga vid bolagsstämman.
   The extra general meeting noted that a copy of the latest Annual Report including the appropriation of the loss and a confirmation of the adoption resolution and the Administration Report were presented at the extra general meeting.

7. Stämmans beslut fattades enhälligt.
   The decisions of the extra general meeting were unanimous.

8. Ordföranden förklarade stämman avslutad.
   The Chairperson declared the extra general meeting to be closed.

Vid protokollet
Upon the minutes

Per-Erik Lövgren

Justeras
Verified

Robert Tozer

OPI Aktiebolag
Org nr/Reg no 556159-8078

STYRELSENS REDOGÖRELSE
REPORT BY THE BOARD

Otterbäcken 2003-11-03

Händelser av väsentlig betydelse
Significant events

Efter den senaste årsredovisningens avgivande har inga händelser av väsentlig betydelse för bolagets ställning inträffat förutom att investeringar gjorts i en svarv i dotterbolaget Vänerply, vilken utgör en väsentlig del i bolagets produktionskedja. Efter intrimning fungerar nu denna investering bra.
No significant events for the balance of the company have happened since the latest Annual Report besides investment in a lathe in the subsidiary Vänerply Aktiebolag, which is an important part of the production line. After a start-up time the investment is now working well.

Omständigheter av betydelse för rätt till kvittning
Significant circumstances for the right of set-off

Moderbolaget 504040 N.B. Ltd har via lån och köp för OPI Aktiebolag och dess dotterbolag Vänerply Aktiebolag tillskjutit 10 850 000 kronor. Dessa medel finns bokförda i redovisningen såsom skuld till moderföretag. Genom konvertering till eget kapital är detta till fördel för bolaget.
The parent company 504040 N. B. Ltd has by loans and purchases for OPI Aktiebolag and its subsidiary Vänerply Aktiebolag contributed an amount of SEK 10 850 000. These funds are booked as liabilities to parent company in the accounts. The company will benefit from a conversion into equity capital.

Otterbäcken 2003-11-03

OPI Aktiebolag

Robert Tozer

REVISORS YTTRANDE
REPORT BY THE AUDITOR

Göteborg 2003-11-03

Jag har inget att erinra mot styrelsens redogörelse över händelser av väsentlig betydelse för bolagets ställning efter senaste årsredovisningens avgivande eller redogörelsen över omständigheter för rätten till kvittning.
I have no objection against the report by the board for significant events since the latest Annual Report or the report of significant circumstances for the right of set-off.

Göteborg 2003-11-03

Kent Lindholm
Auktoriserad revisor
Lindebergs Grant Thornton AB

OPI Aktiebolag

Org nr/Reg No 556159-8078

TECKNINGSLISTA
SUBSCRIPTION LIST

Otterbäcken 2003-11-03

[illegible]
[illegible] L.
2017-11-17

Teckningslista med beslut om nyemission i OPI Aktiebolag enligt bilaga.
Subscription list with decision of a new share issue in OPI Aktiebolag according to appendix.

Undertecknade tecknar följande antal aktier i OPI Aktiebolag;
The undersigned subscribe the following amount of shares in OPI Aktiebolag;

Namn/Firma *Name/Company*	Antal aktier *Number of shares*
504040 N.B. Ltd through Robert Tozer	<u>1 000</u>
Summa/*Sum*	1 000

Otterbäcken 2003-11-03

Robert Tozer

APPENDIX "D"

Borden Ladner Gervais LLP
Lawyers • Patent & Trade-mark Agents
Scotia Plaza, 40 King Street West
Toronto, Ontario, Canada M5H 3Y4
tel.: (416) 367-6000 fax: (416) 367-6749
www.blgcanada.com

SAM P. RAPPOS
direct tel.: (416) 367-6033
direct fax: (416) 361-7306
e-mail: srappos@blgcanada.com

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March 24, 2010

DELIVERED BY E-MAIL

James L. Mockler
Gilbert McGloan Gillis
22 King Street
P.O. Box 7174
Saint John, NB E2L 1G3

Dear Mr. Mockler,

Re: In the Matter of the Receivership of Atcon Group Inc., *et al*, Court File No. N/M/17/10 (the "Receivership Proceeding")

We write to you in your capacity as counsel to the Respondents and Mr. Tozer with respect to the Receivership Proceeding. As you know, we are counsel to Ernst & Young Inc., the receiver and receiver and manager of the property, assets and undertakings of the Respondents (the "**Receiver**") in the Receivership Proceeding pursuant to the Order of Mr. Justice Riordon dated March 2, 2010 (the "**Receivership Order**").

As you may know, Atcon Group Inc. ("**Atcon Group**") is the sole shareholder of OPI AB ("**OPI**"), a Swedish company. OPI is the sole shareholder of Vanerply AB ("**Vanerply**"), a Swedish company that manufacturers plywood. As a result, Atcon Group is the indirect sole shareholder and parent of Vanerply.

In October 2009, Mr. Tozer, on behalf of the Respondents, retained Grant Thornton Sweden AB ("**Grant Thornton**") to conduct a sales process for the Vanerply business, which includes a potential sale of OPI's shares in Vanerply. The Receiver understands, based on its discussions with Grant Thornton, that the sales process is at a critical stage, as potential purchasers have recently conducted site tours and met with Vanerply management and Grant Thornton is about to commence negotiations and issue bid letters to potential purchasers. Grant Thornton and Vanerply management have also informed the Receiver that potential purchasers and Vanerply's customers and suppliers are aware of the Receivership Proceeding against Atcon Group, and that the proceeding has contributed to an uncertain governance situation in the minds of such parties.

As a result, according to Vanerply management and Grant Thornton, critical log suppliers are questioning whether they should continue to supply to Vanerply, and if so, at what cost, and other interested parties have expressed concern regarding the stability of the Vanerply business. Grant Thornton and Vanerply management have each informed the

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Receiver of their respective view that immediate corporate governance steps for OPI and Vanerply are required to reassure potential purchasers, customers, suppliers and other interested parties of the stability of the Vanerply business, and to prevent any potential erosion of the value of the Vanerply business.

As you know, pursuant to paragraph 3 of the Receivership Order, the Court has empowered and authorized the Receiver to, among other things, take possession and control of the Property (as defined in the Receivership Order) and to receive, preserve and protect the Property. The Property includes Atcon Group's shares of OPI. It is the Receiver's position, based in part on advice received from Grant Thornton and Vanerply management, that to ensure that OPI and Vanerply have functioning and operating boards of directors that are solely focused on preserving and enhancing the value of the Vanerply business and are separate and apart from Atcon Group and the Receivership Proceeding, it would be preferable for Mr. Tozer to resign from the board of directors of OPI and Vanerply and as an authorized signatory for both OPI and Vanerply.

With respect thereto, please find enclosed resignation letters for Mr. Tozer to sign with respect to OPI and Vanerply. Given the critical status of the Vanerply sales process, we ask that Mr. Tozer sign and deliver the resignation letters to the Receiver as soon as possible, and in any event by no later than Wednesday March 24, 2010 at 5:00 pm CST.

Given the issues and time sensitivity noted above, in the event that the Receiver has not received the executed resignation letters from Mr. Tozer by the time noted above, it will have no other alternative than to seek the removal of Mr. Tozer as director and signing authority for OPI and Vanerply in accordance with the power and authorization provided to the Receiver by the Court in the Receivership Proceeding pursuant to subparagraph 3(l) of the Receivership Order.

Please do not hesitate to contact us to discuss the matter further.

Yours truly,

Sam P. Rappos

Cc: *Ernst & Young Inc.*
Michael J. MacNaughton, *Borden Ladner Gervais LLP*

::ODMA\PCDOCS\TOR01\4320167\3

To: the Board of Directors of OPI Aktiebolag (Reg. No. 556159-8078)
(the "**Company**")

Letter of Resignation

I hereby confirm that I, the undersigned, as of the date hereof resign from my assignment as board member and signatory in the Company.

I confirm that I do not and will not have any claims or demands relating to my capacity as board member in the Company and that I will not make use of my formal right to represent the Company after the date hereof.

Place:____________________

Date: ____________________

____

Robert Tozer

LEGAL#5278067v1

To: the Board of Directors of Vänerply Aktiebolag (Reg. No. 556217-0349)
(the "**Company**")

Letter of Resignation

I hereby confirm that I, the undersigned, as of the date hereof resign from my assignment as board member and signatory in the Company.

I confirm that I do not and will not have any claims or demands relating to my capacity as board member in the Company and that I will not make use of my formal right to represent the Company after the date hereof.

Place:__________________

Date: __________________

____

Robert Tozer

LEGAL#5278062v1

APPENDIX “E”

Borden Ladner Gervais LLP
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June 29, 2010

DELIVERED BY E-MAIL

James L. Mockler
Gilbert McGloan Gillis
22 King Street
P.O. Box 7174
Saint John, NB E2L 1G3

Dear Mr. Mockler,

Re: Atcon Group Inc. ("Atcon Group") and OPI AB

As you know, we are counsel to Ernst & Young Inc., the Court-appointed receiver and receiver manager of the property, assets and undertakings of Atcon Group (the "**Receiver**").

Pursuant to paragraph 3 of the Receivership Order of Justice Riordon of the Court of Queen's Bench of New Brunswick dated March 2, 2010, the Receiver has been authorized and empowered by the New Brunswick Court to, *inter alia*, receive, take possession and control, and protect the property, assets and undertakings of Atcon Group (the "**Property**"). Additionally, paragraph 4 of the Receivership Order provides that Atcon Group and all of its current and former directors, officers and employees, among others, shall forthwith advise the Receiver of the existence of any Property in the person's possession and deliver the Property to the Receiver upon the Receiver's request.

The Receiver has been informed by its Swedish counsel that, according to the Swedish Companies Registration Office, OPI AB, a Swedish corporation ("**OPI**") is wholly owned by Atcon Group, and that 2,000 common shares of OPI have been issued to Atcon Group. Such shares consist of common shares numbered 1-1,000 acquired by the predecessors to Atcon Group in December 2000, and an additional 1,000 common shares, numbered 1,001 to 2,000, issued to Atcon Group in November 2003. However, in the Credit Agreement dated April 4, 2006 between, among others, Atcon Holdings Inc. as borrower and Roynat Capital Inc. as lender (the "**Credit Agreement**"), Mr. Robert Tozer, on behalf of certain Atcon companies, represented and warranted that OPI was

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solely owned by Atcon Group and that the issued capital of OPI was 1,000 common shares.[1]

To date, the Receiver has only been able to locate OPI common share certificates numbered 1-1,000. It is unclear to the Receiver if OPI share certificates numbered 1,001 to 2,000 were in fact issued, and if such share certificates were issued, the current location and ownership of such share certificates.

We hereby request, on behalf of the Receiver and pursuant to paragraph 4 of the Receivership Order, that Mr. Tozer confirm, by the close of business on Wednesday June 30, 2010, whether physical OPI common share certificates numbered 1,001 to 2,000 were issued to Atcon Group, and if so, arrange for the delivery of such share certificates to the Receiver.

In the event that, as appears to be the case, no OPI common share certificates were issued with respect to the November 2003 share issuance, the Receiver requests that Mr. Tozer provide a statutory declaration, in a form to be provided, which confirms that only 1,000 OPI common share certificates, numbered 1-1,000, were issued to Atcon Group, and that no share certificates were issued in connection with the additional 1,000 common shares issued to Atcon Group in November 2003.

Please contact the undersigned if you have any questions regarding the foregoing.

Yours truly,

Sam P. Rappos

Cc: *Ernst & Young Inc.*

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[1] See section 5.1(16) and Schedule 5.1(16) of the Credit Agreement.

TAB 4

Court File No. N/M/17/10

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL DISTRICT OF MIRAMICHI

IN THE MATTER OF THE RECEIVERSHIP OF:

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC.

PURSUANT TO Section 33 of The *Judicature Act,* R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act,* R.S.C. 1985, c. B-3

BETWEEN:

THE BANK OF NOVA SCOTIA, a Canadian chartered bank with a registered office in the City of Saint John, Province of New Brunswick

APPLICANT

- and –

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

RESPONDENTS

THIRTEENTH REPORT OF THE RECEIVER
November 18, 2010

INTRODUCTION AND PURPOSE

1. In connection with the applications of The Bank of Nova Scotia (the "**Bank**") pursuant to section 33 of the *Judicature Act* (New Brunswick), Rule 41 of the Rules of Court of New Brunswick, and section 243 of the *Bankruptcy and Insolvency Act* (Canada) that were heard by The Honourable Mr. Justice Riordon of the Court of Queen's Bench of New Brunswick on March 1, 2010 and March 30, 2010, Ernst & Young Inc. ("**EYI**") was respectively appointed as receiver and receiver manager (the "**Receiver**") of the property, assets and undertakings of:

   (a) Atcon Group Inc., Atcon Holdings Inc., Atcon Property Holdings Inc., Atcon Veneer Products Inc. and Atcon Logistics Inc. pursuant to the Receivership Order dated March 2, 2010 (the "**March 2 Order**"); and

   (b) Atcon Construction Inc. ("**Atcon Construction**"), Atcon Management Services Inc., Atcon Civil Ltd., Dycon Construction Ltd., Atcon Structures Inc. and Envirem Technologies Inc. (now known as 058545 N.B. Inc.) pursuant to an Order dated March 30, 2010 (the "**March 30 Order**", and the March 30 Order together with the March 2 Order, the "**Receivership Order**").

2. The Receivership Order, among other things, authorizes and empowers the Receiver to:

   (a) take possession and control of the Property;

   (b) receive, preserve and protect the Property, or any parts thereof;

   (c) receive and collect all monies and accounts then owed or thereafter owing to the Respondents and to exercise all remedies of the Respondents in collecting such monies;

   (d) sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of this Court in respect of any transaction in which the purchase price exceeds $100,000 or the aggregate purchase price of all transactions less than $100,000 exceeds $1,000,000;

(e) take any steps reasonably incidental to the exercise of the powers under the Receivership Order; and

(f) apply to this Honourable Court for advice and directions in the discharge of its powers and duties under the Receivership Order.

3. The purpose of this Thirteenth Report is to provide additional information to this Honourable Court with respect to matters that were before the Court on a motion heard in these proceedings on October 28, 2010 in connection with the Tenth Report of the Receiver dated October 22, 2010 (the "**Tenth Report**").

TERMS OF REFERENCE

4. In preparing this Thirteenth Report, the Receiver has been provided with, and has relied upon unaudited historical financial statements, other unaudited financial information and projections prepared by the Respondents, the books and records of the Respondents, discussions with certain of the former management and employees of the Respondents, and other information from various sources. The Receiver has assumed that the information it has been provided is accurate and complete. The Receiver did not audit, review or otherwise attempt to verify the accuracy or completeness of the information. Accordingly, the Receiver expresses no opinion or other form of assurance with respect to the information presented in this Thirteenth Report or relied upon by the Receiver in preparing this Thirteenth Report. Further, the nature of the Receiver's work completed in these proceedings will not necessarily disclose errors, misstatements, irregularities or illegal acts, if such exist, on the part of the Respondents, or its officers or employees or in the information.

5. All references to monetary amounts in this Thirteenth Report are in Canadian dollars unless otherwise noted.

6. Capitalized terms not defined in this Thirteenth Report are as defined in the Receivership Order.

7. Copies of Court materials in these proceedings may be obtained from the Receiver's website established in connection with the Respondents (www.ey.com/ca/atcon).

OCTOBER 28, 2010 MOTION

8. As is set out in greater detail in the Tenth Report, the Receiver brought a motion in these proceedings, which was returnable before this Honourable Court on October 28, 2010, seeking, among other things, the Court's approval of the proposed sale of certain equipment owned by Atcon Construction to Premier Construction Ltd. ("**Premier**"). A copy of the Tenth Report (without appendices) is attached hereto as **Appendix "A"**.

9. During the hearing of the motion, this Honourable Court requested additional information from the Receiver with respect to the following:

    (a) the status of a Miller Bobcat Welder 250, 10,000 watt 100426 WE - 4, Serial Number LF122326 (the "**Welder**") identified as missing in the appraisal obtained by the Receiver from Fitzpatrick's Auctioneering Services Limited ("**Fitzpatrick's**"); and

    (b) the status of equipment that was originally intended to be purchased by Premier but was subsequently released by the Receiver to Caterpillar Financial Services Limited ("**Caterpillar**").

<u>Status of the Welder</u>

10. As set out in paragraphs 8 and 9 of the Tenth Report, property of Atcon Construction was located at the Long Harbour Nickel Processing Plant Site in Long Harbour, Newfoundland & Labrador (the "**Long Harbour Site**") and utilized by Pennecon Heavy Civil Ltd. ("**Pennecon**") in connection with a joint venture entered into between Atcon Construction and certain entities related to Pennecon.

11. The Receiver understands, based on its communications with representatives of Pennecon and the Respondents, that the Welder had been identified by Pennecon as being stolen from the Long Harbour Site prior to March 1, 2010, which is the date EYI was appointed

as Monitor of Atcon Construction in the *Companies' Creditors Arrangement Act* proceedings bearing Court File No. N/M/16/10 (the "**CCAA Proceedings**").

12. As set out in paragraph 19 of the Tenth Report, following its appointment the Receiver arranged for Fitzpatrick's to prepare an appraisal of certain pieces of equipment owned by Atcon Construction and located at the Long Harbour Site. The Receiver understands that the listing of Atcon Construction property that was provided to Fitzpatrick's and which identified the Welder as having been stolen was prepared by a representative of Pennecon.

13. A copy of the Fitzpatrick's appraisal dated July 19, 2010 (the "**Fitzpatrick's Appraisal**") was appended to the Supplement to the Tenth Report of the Receiver dated October 27, 2010 (the "**Supplemental Report**"), a copy of which was provided to this Honourable Court. As set out in paragraph 20 of the Tenth Report, the Receiver sought a sealing order with respect to this Supplemental Report due to the sensitive commercial information contained therein and in the appendices attached thereto. A sealing order was granted by this Honourable Court with respect to the Supplemental Report on October 28, 2010. A copy of the Order is attached hereto as **Appendix "B"**.

14. During the hearing of the motion with respect to the Tenth Report and the Supplemental Report, this Honourable Court requested additional information with respect to the status of the Welder, as it was noted in the Fitzpatrick's Appraisal that Fitzpatrick's was unable to locate the Welder in completing its appraisal of the assets of Atcon Construction.

15. The Receiver has discussed the status of the Welder with its Newfoundland & Labrador counsel. Counsel has confirmed to the Receiver that there were no registrations in existence against the serial number of the Welder with the Newfoundland & Labrador Personal Property Registry System (the "**PPRS**") as of November 1, 2010. Additionally, counsel has confirmed to the Receiver that the Welder is not specifically mentioned in any registrations filed with the PPRS against "Atcon Construction Inc." as of June 22, 2010. Lastly, counsel conducted a search of the Welder's serial number with the Newfoundland & Labrador Department of Motor Vehicles ("**DMV**") and has confirmed

to the Receiver that as of November 1, 2010 there were no registrations with the DMV that refer to the serial number of the Welder.

16. As a result of the information provided to the Receiver set out above, the Receiver reports to this Honourable Court that on November 8, 2010, the Receiver filed a missing property report with respect to the Welder with the district office of the Royal Canadian Mounted Police ("**RCMP**") located in Whitbourne, Newfoundland & Labrador. The Receiver has provided all of the information available to it with respect to the Welder to the RCMP.

17. It is the Receiver's view that, given the period of time that has elapsed since the Welder was likely removed from the Long Harbour Site, it is unlikely that the Welder will be recovered by the Receiver for the benefit of the Respondents' stakeholders. However, in the event that the Receiver obtains further information with respect to the Welder, the Receiver will report to this Honourable Court as soon as reasonably possible following receipt of such information.

Caterpillar Equipment

18. As set out in paragraphs 26-27 of the Tenth Report, the proposed purchase of Atcon Construction equipment by Premier originally included three (3) pieces of equipment that were subject to a promissory note in favour of Caterpillar.

19. During the hearing of the motion on October 28, 2010, this Honourable Court requested further information as to the terms of the promissory note and the release of the Equipment to Caterpillar.

20. The Receiver has confirmed that the 3 pieces of equipment released to Caterpillar and referred to in the Tenth Report are more specifically described as follows (collectively, the "**Equipment**"):

    (a) 1989 Telsmith 36/46 Crusher Jaw, Unit# CR-1, Serial Number 222M7824;

    (b) 1998 JC 20 ton Float Trailer, Unit# LB-3, Serial Number 2J9C3V5C6WK001248; and

(c) 2000 Talbert 60 ton Float Trailer, Unit# LB-2, Serial Number 40FWK604XY1019040.

21. With respect to the release of the Equipment to Caterpillar, an Order was granted in the CCAA Proceedings on March 22, 2010 (the "**Equipment Order**") that set out, among other things, a detailed mechanism for the release of equipment no longer being used by Atcon Construction and other Atcon companies to carry on business to lessors of equipment. A copy of the Equipment Order is attached hereto as **Appendix "C"**.

22. Pursuant to paragraph 5 of the Equipment Order, once a determination had been made that certain equipment was no longer being used by the applicable Atcon companies to carry on their businesses, EYI in its capacity as Monitor in the CCAA Proceedings was required to issue a certificate confirming that the applicable lessor of equipment was to proceed to take possession, control and management of such equipment. The Equipment Order states that the Monitor had made no assessment of any claims to equipment made by lessors of equipment and was not obligated to conduct an assessment of claims prior to the issuance of an equipment certificate and release of equipment.

23. In the context of the equipment release mechanism established by the Equipment Order, the Monitor issued to Caterpillar an equipment release certificate dated March 25, 2010 (the "**Caterpillar Certificate**"). A copy of the Caterpillar Certificate is attached hereto as **Appendix "D"**. The Receiver notes that the equipment to be released to Caterpillar listed on Schedule "A" to the Caterpillar Certificate includes equipment related to a "Promissory Note/Security Agreement" identified as Contract 58941, which is discussed in further detail below.

24. During the hearing of the Receiver's motions on October 28, 2010, Caterpillar's counsel confirmed that it would consult Caterpillar and provide additional information as to Caterpillar's interest in the Equipment.

25. The Receiver reports that it has obtained the following documents in connection with the Equipment, copies of which are attached hereto as **Appendix "E"**:

(a) a financing proposal dated April 15, 2008 from Caterpillar to Atcon Construction (the "**Financing Proposal**");

(b) a security agreement dated April 28, 2008 granted by Atcon Construction in favour of Caterpillar (the "**Security Agreement**"); and

(c) a promissory note dated May 27, 2008 granted by Atcon Construction in favour of Caterpillar (the "**Promissory Note**").

26. Pursuant to the terms of the Financing Proposal, Caterpillar offered to provide a term loan to Atcon Construction in the amount of $1,500,000. As part of the Financing Proposal, Caterpillar indicated that it would take security over certain equipment. As set out in the Financing Proposal, the Equipment is listed as equipment over which Atcon Construction would be required to grant security over in connection with the financing offered by Caterpillar in the Financing Proposal.

27. Pursuant to the terms of the Security Agreement, Atcon Construction granted a security interest in personal property listed in Schedule "A" to the Security Agreement as general and continuing collateral security for the due payment and performance of the Liabilities, which is defined in the Security Agreement to include all present and future indebtedness and liability of Atcon Construction to Caterpillar. The Receiver reports that the Equipment is listed in Schedule "A" of the Security Agreement.

28. Pursuant to the terms of the Promissory Note, Atcon Construction promised to pay to Caterpillar the principal amount of $1,500,000.

29. As a result, the Receiver understands that Atcon Construction granted a security interest in the Equipment in favour of Caterpillar as general and continuing collateral security for the due payment and performance of all present and future indebtedness and liability of Atcon Construction to Caterpillar. The Receiver further understands that the liabilities secured by the Security Agreement would include amounts owed to Caterpillar under the Promissory Note. Additionally, the Receiver understands that the reference to "Promissory Note/Security Agreement" identified as Contract 58941 in the Caterpillar

Certificate is a reference to the Financing Proposal, the Security Agreement and the Promissory Note.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 18th day of November, 2010

ERNST & YOUNG INC.
in its capacity as the Court-appointed
Receiver of the Respondents and not in its
personal or corporate capacity

By:

Paul D. Hickey, CA•CIRP
Senior Vice President

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APPENDIX "A"

Court File No. N/M/17/10

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL DISTRICT OF MIRAMICHI

IN THE MATTER OF THE RECEIVERSHIP OF:

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC.

PURSUANT TO Section 33 of The *Judicature Act,* R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act,* R.S.C. 1985, c. B-3

BETWEEN:

THE BANK OF NOVA SCOTIA, a Canadian chartered bank with a registered office in the City of Saint John, Province of New Brunswick

APPLICANT

- and –

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

RESPONDENTS

TENTH REPORT OF THE RECEIVER
October 22, 2010

INTRODUCTION AND PURPOSE

1. In connection with the applications of The Bank of Nova Scotia (the "**Bank**") pursuant to section 33 of the *Judicature Act* (New Brunswick), Rule 41 of the Rules of Court of New Brunswick, and section 243 of the *Bankruptcy and Insolvency Act* (Canada) that were heard by The Honourable Mr. Justice Riordon of the Court of Queen's Bench of New Brunswick on March 1, 2010 and March 30, 2010, Ernst & Young Inc. was respectively appointed as receiver and receiver manager (the "**Receiver**") of the property, assets and undertakings of:

   (a) Atcon Group Inc., Atcon Holdings Inc., Atcon Property Holdings Inc., Atcon Veneer Products Inc. and Atcon Logistics Inc. pursuant to the Receivership Order dated March 2, 2010 (the "**March 2 Order**"); and

   (b) Atcon Management Services Inc., Atcon Civil Inc., Dycon Construction Ltd., Atcon Structures Inc., Atcon Construction Inc. ("**Atcon Construction**") and Envirem Technologies Inc. (now known as 058545 N.B. Inc.) pursuant to an Order dated March 30, 2010 (the "**March 30 Order**", and together with the March 2 Order, the "**Receivership Order**").

2. The Receivership Order, among other things, authorizes and empowers the Receiver to:

   (a) take possession and control of the Property;

   (b) receive, preserve and protect the Property, or any parts thereof;

   (c) market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

   (d) sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of this Court in respect of any transaction in which the purchase price exceeds $100,000 or the aggregate purchase price of such transactions exceeds $1,000,000;

(e) apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

(f) take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and

(g) apply to this Honourable Court for advice and directions in the discharge of its powers and duties under the Receivership Order.

3. The purpose of this Tenth Report is to report to this Honourable Court on matters relating to the activities of the Receiver with respect to the NL Assets (as defined below) and to recommend to this Honourable Court that it grant an Order:

(a) authorizing the sale of the Purchased Assets (as defined below) to Premier (as defined below) pursuant to the terms of the Asset Purchase Agreement (as defined below);

(b) approving the Asset Purchase Agreement; and

(c) vesting the Purchased Assets in Premier free and clear of any liens or encumbrances.

TERMS OF REFERENCE

4. In preparing this Tenth Report, the Receiver has been provided with, and has relied upon unaudited historical financial statements, other unaudited financial information and projections prepared by the Respondents, the books and records of the Respondents, discussions with the management and employees of the Respondents, and other information from various sources. The Receiver has assumed that the information it has been provided is accurate and complete. The Receiver did not audit, review or otherwise attempt to verify the accuracy or completeness of the information. Accordingly, the Receiver expresses no opinion or other form of assurance with respect to the information presented in this Tenth Report or relied upon by the Receiver in preparing this Tenth Report. Further, the nature of the Receiver's work completed in these proceedings will

not necessarily disclose errors, misstatements, irregularities or illegal acts, if such exist, on the part of the Respondents, or its officers or employees or in the information.

5. All references to monetary amounts in this Tenth Report are in Canadian dollars unless otherwise noted.

6. Capitalized terms not defined in this Tenth Report are as defined in the Receivership Order.

7. Copies of Court materials in these proceedings may be obtained from the Receiver's website established in connection with the Respondents (www.ey.com/ca/atcon).

NL ASSETS

8. As previously reported to this Honourable Court, Pennecon Atcon Limited Partnership, a limited partnership governed by the laws of Newfoundland and Labrador (the "**Pennecon-Atcon LP**"), is a joint venture formed between Penney Construction Ltd. and Atcon Construction for the purpose of completing all work for Contract CC-0001-Earthworks-Plant Site Development (the "**Vale Inco Contract**") for plant site development of the Long Harbour Nickel Processing Plant Site in Long Harbour, Newfoundland and Labrador (the "**Long Harbour Site**").

9. The Pennecon-Atcon LP subcontracted the work to be performed under the Vale Inco Contract to Pennecon Heavy Civil Ltd. ("**PHCL**"). To complete the services under the Vale Inco Contract, the Receiver understands that PHCL arranged for Atcon Construction to provide certain management services and rent equipment to PHCL.

10. The Receiver understands, based on its discussions with certain former management and employees of Atcon Construction, that Atcon Construction was the owner of thirteen (13) pieces of equipment situated at the Long Harbour Site (collectively, the "**NL Assets**"), being the residual pieces of Atcon equipment remaining at the Long Harbour Site after the return of a significant amount of equipment to various equipment lessors.

11. The NL Assets were located on the Long Harbour Site, a third-party controlled-access construction site to which prospective tenderers would not be permitted access to view

the NL Assets prior to submitting a tender offer. Accordingly, the Receiver determined it would have to incur transportation, handling and holding costs if it moved the NL Assets to another site that was suitable for a public sale process.

12. Pursuant to the provisions of the Receivership Order, the Receiver considered different options to market the NL Assets for the benefit of the creditors of Atcon Construction.

SALE OF PURCHASED ASSETS

Sale Method for the NL Assets

13. The Receiver considered including the NL Assets in the tender process that was to be conducted by the Receiver with respect to the Property of the Respondents located in the Province of New Brunswick, which was Property that the Receiver determined was suitable to forming the basis of potential *en bloc* sales of construction and quarry related assets (the "**Tender Process**"). However, the Receiver determined that including the NL Assets in the Tender Process would not maximize the net recovery from these assets, as the anticipated transportation, handling and holding costs to move, preserve and protect the NL Assets pending the conclusion of the Tender Process, as discussed above, would reduce the net recovery thereon.

14. As a result, the Receiver determined it would be in the best interests of the stakeholders of Atcon Construction for the Receiver to conduct a separate sale process for the sale of the NL Assets, separate and apart from the Tender Process.

15. As noted above, the NL Assets are located at the Long Harbour Site, which is approximately a ninety-minute drive from St. John's. The Receiver understands, based on its discussions with PHCL, that the Long Harbour Site is a third-party owned and controlled-access construction site and the Receiver would not be permitted to conduct an auction on site.

16. As a result of the inability of the Receiver to hold an auction at the Long Harbour Site, the Receiver initially considered holding an auction of the NL Assets at a nearby site in Newfoundland and Labrador, as a location near the Long Harbour Site would reduce transportation charges.

17. However, the Receiver was concerned that the relatively low number of units, and the nature and condition of the NL Assets, would not attract a suitably sized group of qualified buyers to attend an auction on or near the Long Harbour Site.

18. As a result, the Receiver determined that the best location for the Receiver to conduct an auction of the NL Assets would be in St. John's, NL where a sufficient number of qualified buyers might be present to view the NL Assets.

19. The Receiver arranged for Fitzpatrick's Auctioneering Services Limited ("**Fitzpatrick's**"), a reputable appraiser/auctioneer based in St. John's, to prepare an appraisal of the NL Assets. A copy of the Fitzpatrick's appraisal will be provided to the Court as an appendix to a supplemental report prior to the hearing of the motion scheduled for October 28, 2010 (the "**Supplemental Report**").

20. The Receiver will be seeking a sealing order from this Honourable Court with respect to the Supplemental Report, on the basis that the Supplemental Report contains sensitive commercial information, the dissemination of which could be prejudicial to the best interests of the Respondents' stakeholders and to the successful completion of any future sales transactions in the event that the Asset Purchase Agreement does not close.

21. With respect to a proposed auction of the NL Assets in St. John's, any auction held in St. John's would necessitate transporting the NL Assets to St. John's from the Long Harbour Site. The Receiver estimated the cost to transport the NL Assets to St. John's to be between $15,000 to $20,000, a significant expense given the appraised value of the NL Assets. Additionally, in the event the NL Assets were sold via auction, the net realization from the NL Assets would be reduced by the auctioneer's commission, which was estimated to be in the range of 15% plus any holding costs that might be incurred to preserve and protect the NL Assets pending their eventual sale.

22. As a result of the potential costs associated with transporting the NL Assets to St. John's for an auction and the additional realization and holding costs associated with such a process, the Receiver determined that it would be beneficial to consider whether another avenue for realization of the NL Assets existed other than an auction.

23. The Receiver understands that Pennecon-Atcon LP, PHCL and its affiliates (collectively, "**Pennecon**") is a large construction company that had previously used the NL Assets in providing services under the Vale Inco Contract. The Receiver was of the view that a sale of the NL Assets to Pennecon could reduce expenses, including professional time to arrange and supervise an auction of the NL Assets, and potentially realize a value for the NL Assets equal to or greater than the alternative options detailed above.

24. Consequently, the Receiver concluded it would be in the best interests of the Atcon Construction estate to contact Pennecon to determine whether it would be interested in buying the NL Assets.

Purchased Assets and Asset Purchase Agreement

25. Pennecon considered the Receiver's invitation to make an offer for the NL Assets and, following a period of negotiation, an agreement was reached in principle between the Receiver and Premier Construction Ltd. ("**Premier**"), a Pennecon affiliate, for the sale of the NL Assets to Premier.

26. However, subsequent to the agreement in principle being reached and the drafting of an agreement of purchase and sale, the list of the NL Assets was reviewed by Caterpillar Financial Services Limited ("**Caterpillar**") and it was determined that three (3) of the NL Assets were subject to a promissory note in favour of Caterpillar (the "**Excluded Assets**").

27. As a result, the Excluded Assets were removed from the assets to be sold to Premier, and the purchase price agreed to for the NL Assets detailed in **Appendix "A"** hereto (the "**Purchased Assets**") was reduced in an amount equal to the value that had been allocated to the Excluded Assets previously.

28. Following the resolution of the issue with respect to the Excluded Assets, an agreement of purchase of sale was finalized by the Receiver and Premier dated October 21, 2010 (the "**Asset Purchase Agreement**"). A redacted copy of the Asset Purchase Agreement is attached hereto as **Appendix "B"**. An unredacted copy of the Asset Purchase Agreement will be provided to the Court as an appendix to the Supplemental Report.

Acceptance of Asset Purchase Agreement

29. As noted above, prior to discussing the potential purchase by Pennecon of the NL Assets, the Receiver arranged for Fitzpatrick's to prepare an appraisal of the NL Assets. Fitzpatrick's appraisal provided an aggregate estimated liquidation value ("**ELV**") of the NL Assets, but did not provide an ELV for the NL Assets on an asset-by-asset basis. Fitzpatrick's did provide an estimated fair market value ("**FMV**") for the NL Assets on an asset-by-asset basis basis.

30. So that it could consider the value of the Pennecon offer for the Purchased Assets in comparison to an auction, it was necessary for the Receiver to attempt to estimate an ELV for the Purchased Assets. To reach such an estimate the Receiver used the aggregate of the individual FMVs for the NL Assets, and then determined the proportion that each of the individual FMV's of the Purchased Assets was of the aggregate FMVs of the Purchased Assets, and then used such proportion/percentage to determine an ELV for each of the NL Assets by applying that proportion/percentage to the total ELV provided by Fitzpatrick's.

31. The Receiver reports that, based on the aggregate of the individual ELVs for the Purchased Assets determined by the Receiver, and taking into consideration the estimated commission and expenses associated with the auction process, the anticipated costs to move the Purchased Assets to St. John's for an auction, the risk that an auction of the NL Assets by an auctioneer would not produce results greater than or equal to the appraised values, and the incremental professional costs of the Receiver and its counsel that would likely be incurred in arranging a second sale process in the Province of Newfoundland & Labrador, the proposed sale of the Purchased Assets to Premier under the Asset Purchase Agreement will likely result in a higher net realization for the benefit of the stakeholders of Atcon Construction in comparison to an auction sale.

32. The Receiver discussed its acceptance recommendation with representatives from the Province of New Brunswick and the Bank prior to execution of the Asset Purchase Agreement. The Receiver understands that such parties have the primary interest in the results of the sale of the Purchased Assets by virtue of their respective security over the

NL Assets. The Receiver notes that no objections to the proposed Asset Purchase Agreement were raised by these parties.

33. As a result, the Receiver recommends that this Honourable Court approve the sale of the Purchased Assets to Premier, approve the Asset Purchase Agreement and vest the Purchased Assets in Premier free and clear of any liens or encumbrances.

RELIEF SOUGHT BY THE RECEIVER

34. The Receiver respectfully requests that this Honourable Court grant an Order in the form submitted by the Receiver:

(a) authorizing the sale of the Purchased Assets to Premier pursuant to the terms of the Asset Purchase Agreement;

(b) approving the Asset Purchase Agreement; and

(c) vesting the Purchased Assets in Premier free and clear of any liens or encumbrances.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of October 2010

ERNST & YOUNG INC.
in its capacity as the Court-appointed Receiver of the Respondents and not in its personal or corporate capacity

By:

Paul D. Hickey, CA•CIRP
Senior Vice President

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APPENDIX “B”

Court File No. N/M/17/10

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF MIRAMICHI

IN THE MATTER OF THE RECEIVERSHIP OF:

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC.

PURSUANT TO Section 33 of The *Judicature Act,* R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act,* R.S.C. 1985, c. B-3

BETWEEN:

THE BANK OF NOVA SCOTIA, a Canadian chartered bank with a registered office in the City of Saint John, Province of New Brunswick

APPLICANT

- and –

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

RESPONDENTS

COURT OF QUEEN'S BENCH OF N.B. RECEIVED AND FILED
OCT 28 2010
COUR DU BANC DE LA REINE DU N.-B. REÇU ET DÉPOSÉ

APPROVAL AND VESTING ORDER

28 oct 2010

THIS MOTION, made by Ernst & Young Inc., in its capacity as the Court-appointed receiver and receiver manager (the "**Receiver**") of the property, assets and undertakings of Atcon Construction Inc. (the "**Debtor**") for an order vesting in Premier Construction Ltd. (the "**Purchaser**") the Debtor's and the Receiver's right, title and interest, if any, in and to the assets described in an Asset Purchase Agreement (the "**Agreement**") between the Receiver and the Purchaser made as of October 21, 2010 and appended to the Tenth Report of the Receiver dated October 22, 2010 (the "**Tenth Report**"), was heard this day at 673 King George Highway, Miramachi, New Brunswick.

ON READING the Notice of Motion of the Receiver dated October 22, 2010, the Tenth Report and all appendices thereto, and the Supplement to the Tenth Report of the Receiver dated October 27, 2010 (the "**Supplemental Report**"), and on hearing the submissions of counsel for the Receiver, the Purchaser, The Bank of Nova Scotia, the Province of New Brunswick, Aviva Surety, Caterpillar Financial Services Limited and General Electric Canada Equipment Financing G.P. and related entities, no one appearing for any other person on the service list, although properly served,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Tenth Report, the Supplemental Report and the Record on Motion shall be and is hereby abridged and validated so that the motion is properly returnable today, and that any further service thereof is hereby dispensed with.

2. **THIS COURT ORDERS AND DECLARES** that the Agreement be and the same is hereby approved.

3. **THIS COURT ORDERS AND DECLARES** that upon the Purchase Price (as defined in the Agreement) having been paid in accordance with the Agreement, all conditions to Closing with respect to the sale of the Purchased Assets (as such terms are defined in the Agreement) having been satisfied or waived, and the delivery by the Receiver of a Receiver's certificate substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), confirming that the sale of the Purchased Assets has been completed, all of the Debtor's and the Receiver's right, title and interest in and to the Purchased Assets described in the Agreement and listed on Schedule B hereto, if any, shall be vested absolutely in the Purchaser, free and clear of and from any and all ownership claims, title retention claims, security interests (whether

JCR
28 Oct 2010

contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, known or unknown, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Riordon dated March 2, 2010, as amended by the Order of the Honourable Justice Riordon dated March 30, 2010 (the "**Receivership Order**"); (ii) any encumbrances or charges created by the Initial Order in the CCAA proceedings bearing Court File No. N/M/16/10 dated March 2, 2010; (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (New Brunswick), the *Personal Property Security Act* (Newfoundland and Labrador), the *Registration of Deeds Act* (Newfoundland and Labrador), the *Mechanics' Lien Act* (Newfoundland and Labrador), the *Judgment Enforcement Act* (Newfoundland and Labrador) or any other personal property registry system and or real property registry system (all of which are collectively referred to as the "**Encumbrances**"), for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets.

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

(a) the pendency of these proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of the Debtor;

28 oct 2010

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. **THIS COURT ORDERS** that the Supplemental Report shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope and shall only be opened upon further Order of the Court.

Dated at Miramichi, New Brunswick, this 28th day of October, 2010.

Thomas W. Riordon
Judge of the Court of Queen's Bench
of New Brunswick

Schedule A – Form of Receiver's Certificate

Court File No. N/M/17/10

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF MIRAMICHI

IN THE MATTER OF THE RECEIVERSHIP OF:

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC.

PURSUANT TO Section 33 of The *Judicature Act,* R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act,* R.S.C. 1985, c. B-3

BETWEEN:

THE BANK OF NOVA SCOTIA, a Canadian chartered bank with a registered office in the City of Saint John, Province of New Brunswick

APPLICANT

- and –

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

RESPONDENTS

RECEIVER'S CERTIFICATE

Jeff
28 oct 2010

RECITALS

A. Pursuant to an Order of the Honourable Justice Riordon of the Court of Queen's Bench of New Brunswick (the "**Court**") dated March 2, 2010, as amended by the Order dated March 30, 2010, Ernst & Young Inc. was appointed as the receiver and receiver manager (the "**Receiver**") of the property, assets and undertakings of Atcon Construction Inc. (the "**Debtor**").

B. Pursuant to an Order of the Court dated October 28, 2010, the Court approved the Asset Purchase Agreement made as of October 21, 2010 (the "**Agreement**") between the Receiver and Premier Construction Ltd. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Debtor's and the Receiver's right, title and interest, if any, in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the transaction has been completed.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Agreement;

2. The conditions to Closing as set out in the Agreement have been satisfied or waived by the Receiver and the Purchaser; and

3. The transaction has been completed.

4. This Certificate was delivered by the Receiver at ________ [TIME] on _______ [DATE].

28 Oct 2010

ERNST & YOUNG INC., in its capacity as receiver and receiver manager of the property, assets and undertakings of Atcon Construction Inc., and not in its personal or corporate capacity

Per: ______________________________

Name:

Title:

::ODMA\PCDOCS\TOR01\4417299\7

Jek
28 Oct 2010

Schedule B

Description of Purchased Assets

Quantity	Description	Serial Number	Unit #	Equipment #
1	Telsmith Screen, 8/24	6166	SC-4	100046
1	Trac Feeder	AISBF-20172-01-2006	FE-4	100621
1	Trac Feeder	AISBF-20172-02-2006	FE-5	100622
1	2000 Stoughton Van Trailer, AVW 53'	1DW1A5826XS379303	VT-17	100328
1	Stoughton Office Van Trailer, AVW 53'	1DW1A5325XS230458	VT-25	100417
1	Compressor Inger Rand, CFM dual Model 185	4FVCBBAA06U370654	CO-7	100441
1	Shop Made Conveyor 42" x 81ft	n/a	CV- 2	100148
1	2005 Chevrolet 3/4 ton 2wd truck	1GCHC24U35E333662	00117	00117
1	2005 Chevrolet 3/4 ton 2wd truck	1GCHC24U75E329081	00105	00105

JEK 28 Oct, 2010.

APPENDIX "C"

COPY

N/M/16/10

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
TRIAL DIVISION
JUDICIAL DISTRICT OF MIRAMICHI

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.C-36, AS AMENDED

- and -

IN THE MATTER OF ATCON CONSTRUCTION INC., ATCON INDUSTRIAL SERVICES INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONTSTRUCTION LTD., ATCON STRUCTURES INC. and ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

BETWEEN:

THE BANK OF NOVA SCOTIA, a Canadian chartered bank with a registered office in the City of Saint John, Province of New Brunswick

APPLICANT

- and –

ATCON CONSTRUCTION INC., ATCON INDUSTRIAL SERVICES INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONTSTRUCTION LTD., ATCON STRUCTURES INC. and ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

RESPONDENTS

ORDER

THIS MOTION, made by Ernst & Young Inc. in its capacity as Court-appointed monitor in these proceedings (the "**Monitor**") was heard the 15th and 22nd days of March 2010 at 673 King George Highway, Miramichi, New Brunswick.

ON READING the Monitor's First Report to the Court dated March 12 2010, the Monitor's Confidential Supplement to the First Report dated March 12, 2010, the Monitor's Second Supplement to the First Report dated March 14, 2010, and on hearing the submissions of counsel for the Respondents, the Applicant, the Monitor, the Province of New Brunswick, Caterpillar Financial Services Limited, GE Canada Equipment Financing C.P., General Electric Canada Equipment Financing G.P., GE Canada Leasing Services Company, GE VFS Canada Limited Partnership, the Royal Bank of Canada and Key Equipment Finance:

INTERPRETATION

1. **THIS COURT ORDERS** that capitalized words used in this Order that are not otherwised defined in this Order have the meanings ascribed to them in the initial order dated March 2, 2010 in this proceeding (the "**Initial Order**").

PER DIEM PAYMENTS TO EQUIPMENT LESSORS

2. **THIS COURT ORDERS** that the Companies are hereby authorized and directed to pay *per diem* amounts to lessors of equipment ("**Equipment Lessors**", and individually an "**Equipment Lessor**") for each day that equipment subject to an agreement with an Equipment Lessor ("**Equipment Agreement**") was actually being used by the Companies ("**In Use Equipment**") prior to that equipment being released in accordance with Paragraph 5 of this Order . For the purposes of this paragraph "*per diem* amount" in respect of an item of In Use Equipment means the monthly amount payable as of March 2, 2010 by a Company (such calculation of monthly amounts payable to exclude consideration for skip payments) for that item of In Use Equipment divided by 31 and multiplied by the number of days such item of In Use Equipment was actually used. Such *per diem* payments shall be made by the Companies weekly in arrears. The payment obligations of the Companies under this paragraph are without prejudice to any other rights of any Equipment Lessor under the applicable Equipment Agreement or under any applicable law.

3. **THIS COURT ORDERS** that In the event that an Equipment Agreement between a Company and an Equipment Lessor does not allocate an amount payable in respect of each item of In Use Equipment, the relevant Company shall pay a daily amount that is equal to a proportion of the daily amount, calculated in the manner provided in paragraph 2 of this Order, otherwise payable under such an agreement. For the purposes of this paragraph, the proportion of the daily amount payable shall be the amount that the original cost of the relevant In Use Equipment bears to the original cost of all equipment subject to such agreement.

RELEASE OF EQUIPMENT

4. **THIS COURT ORDERS** that nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, administrator, interim receiver, receiver-manager or agent of any Person with respect to the Property, including without limitation any Returned Equipment (as defined herein). The Monitor shall not take possession of the Property and shall not, by fulfilling its obligations hereunder, the Initial Order and the CCAA, be deemed to have taken or maintained possession, care, charge, management or control of the Property.

5. **THIS COURT ORDERS** that notwithstanding any other provision of this Order or the Initial Order (other than paragraph 4 of this Order):

a. All equipment that is no longer actually being used by such Company to carry on its Business shall be released as soon as possible and without delay.

b. Upon making a determination that equipment employed by a Company is no longer actually being used by such Company to carry on its Business, the Monitor shall issue a certificate to an Equipment Lessor substantially in the form attached as **Schedule "A"** hereto (the "**Equipment Certificate**") confirming that the Equipment Lessor may proceed to take possession, control and management of such equipment listed in the appendix thereto subject to the terms contained therein and this Order (the "**Returned Equipment**").

c. An Equipment Certificate shall be issued forthwith to the applicable Equipment Lessor with respect to all equipment employed by Construction in performing its obligations under the Shell Contract and/or the Albian Contract which is subject to an Equipment Agreement.

d. The Monitor shall, as soon as possible, co-ordinate and assist the Equipment Lessors to facilitate the Equipment Lessor obtaining possession and control of Returned Equipment. The Monitor shall establish a schedule to faciliate the orderly return of Returned Equipment in consultation with each applicable Company and Equipment Lessor and assist in that process.

e. An Equipment Lessor with an Equipment Certificate shall be entitled to retrieve the Returned Equipment from the possession of any Person on the terms and conditions established by the Monitor, solely at their own cost and expense, but without prejudice to any rights under the applicable Equipment Agreement, and the stays provided in the Initial Order shall no longer apply to such Returned Equipment.

f. All Persons shall not interfere with an Equipment Lessor with an Equipment Certificate exercising its rights to recover the Returned Equipment listed in the applicable Equipment Certificate.

g. This Order, or the consent of any party thereto, and any Equipment Certificate, or the Monitor's issuance thereof, shall not be a bar to any argument, or any defence to any argument, advanced by any party to this proceeding and, without limiting the foregoing, the release of any equipment shall be on a non-recourse basis without prejudice to any existing rights or obligations of the applicable Company or any other party claiming an interest in the Returned Equipment. The Monitor has made no assessment of any such claims and shall not be obligated to prior to the issuance of an Equipment Certificate.

RELEASE OF CHARGES

6. **THIS COURT ORDERS** that notwithstanding any other provision of this Order or the Initial Order and on being satisfied that the Monitor, the Applicant and their counsel have consented to the following, the Directors Charge, the Administration Charge and the DIP Lenders Charge created by the Initial Order shall not apply to the equipment provided to the Companies by virtue of a lease or financing agreement, of Caterpillar Financial Services Limited, GE Canada Equipment Financing C.P., General Electric Canada Equipment Financing G.P., GE Canada Leasing Services Company, GE VFS Canada Limited Partnership, the Royal Bank of Canada, or Key Equipment Finance.

Dated at Miramichi, New Brunswick, this 22nd day of March, 2010.

Justice of the Court of Queen's Bench
of New Brunswick

Schedule A – Form of Certificate

N/M/16/10

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
TRIAL DIVISION
JUDICIAL DISTRICT OF MIRAMICHI

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.C-36, AS AMENDED

- and -

IN THE MATTER OF ATCON CONSTRUCTION INC., ATCON INDUSTRIAL SERVICES INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONTSTRUCTION LTD., ATCON STRUCTURES INC. and ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

BETWEEN:

THE BANK OF NOVA SCOTIA, a Canadian chartered bank with a registered office in the City of Saint John, Province of New Brunswick

APPLICANT

- and –

IN THE MATTER OF ATCON CONSTRUCTION INC., ATCON INDUSTRIAL SERVICES INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONTSTRUCTION LTD., ATCON STRUCTURES INC. and ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

RESPONDENTS

EQUIPMENT CERTIFICATE

RECITALS

A. Pursuant to an Order of The Honourable Mr. Justice Riordon of The Court of Queen's Bench of New Brunswick (the "**Court**") dated March 2, 2010, Ernst & Young Inc. was appointed as monitor (the "**Monitor**") in respect of __________________ (the "**Debtor**").

B. Pursuant to an Order of the Court dated March 22, 2010 (the "**Equipment Order**"), the Court approved the return of equipment employed by the Debtor and subject to an Equipment Agreement that, as determined by the Monitor in consultation with the Debtor, is no longer required by the Debtor to carry on its Business.

C. This Equipment Certificate is without prejudice to any existing rights or obligations of the Debtor or any other party claiming an interest in the Released Equipment. The Monitor has made no assessment of any such claims.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Equipment Order.

THE MONITOR CERTIFIES the following:

1. The Debtor no longer requires the equipment listed in Appendix A hereto to carry on its Business, and possession, control and management such equipment may be taken by ______________________________, an Equipment Lessor.

2. This Certificate was delivered by the Monitor at ________ [TIME] on _______ [DATE].

ERNST & YOUNG INC. in its capacity as Monitor in respect of, and in the name and on behalf of, ____________________, and not in its personal or corporate capacity

By: ______________________________

Name:

Title:

APPENDIX "D"

N/M/16/10

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
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IN THE MATTER OF ATCON CONSTRUCTION INC., ATCON INDUSTRIAL SERVICES INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONTSTRUCTION LTD., ATCON STRUCTURES INC. and ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

BETWEEN:

THE BANK OF NOVA SCOTIA, a Canadian chartered bank with a registered office in the City of Saint John, Province of New Brunswick

APPLICANT

- and –

IN THE MATTER OF ATCON CONSTRUCTION INC., ATCON INDUSTRIAL SERVICES INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONTSTRUCTION LTD., ATCON STRUCTURES INC. and ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

RESPONDENTS

EQUIPMENT CERTIFICATE

RECITALS

A. Pursuant to an Order of The Honourable Mr. Justice Riordon of The Court of Queen's Bench of New Brunswick (the "**Court**") dated March 2, 2010, Ernst & Young Inc. was appointed as monitor (the "**Monitor**") in respect of Atcon Construction Inc., Atcon Industrial Services Inc., Atcon Management Services Inc., Atcon Civil Ltd., Dycon Construction Ltd., Atcon Structures Inc. and Envirem Technologies Inc. (collectively, the "**Debtors**").

B. Pursuant to an Order of the Court dated March 22, 2010 (the "**Equipment Order**"), the Court approved the return of equipment employed by the Debtors and subject to an Equipment Agreement that, as determined by the Monitor in consultation with the Debtors, is no longer required by the Debtors to carry on its Business.

C. This Equipment Certificate is without prejudice to any existing rights or obligations of the Debtors or any other party claiming an interest in the Returned Equipment. The Monitor has made no assessment of any such claims.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Equipment Order.

THE MONITOR CERTIFIES the following:

1. The Debtors have advised the Monitor that the Debtors no longer require the equipment listed in Schedule "A" hereto to carry on its Business, and possession, control and management such equipment may be taken by Caterpillar Financial Services Limited, an Equipment Lessor.

2. This Certificate was delivered by the Monitor at 10:30 a.m. on March 25, 2010.

ERNST & YOUNG INC. in its capacity as Monitor of Atcon Construction Inc., Atcon Industrial Services Inc., Atcon Management Services Inc., Atcon Civil Ltd., Dycon Construction Ltd., Atcon Structures Inc. and Envirem Technologies Inc., and not in its personal or corporate capacity

By: ______________________

Name: Russell W. French

Title: Vice President

SCHEDULE A

Contract	Description 1	Description 2	Serial Number	General Location
32487	938GII	Loader	CAT0938GACRD00901	Fredericton - NB - Envirem
41011	938GII	Loader	CAT0938GJCRD01218	Fredericton - NB - Envirem
39223	CAT	Bucket & Spare parts	005-0039223	Unknown additional information required
45681	Valley	Dry Van Trailers	4 1998 DRY VAN TRAILERS VALLEY	Serial numbers required
54267			Cat Generators & Welders	Serial numbers required
60724	Metso FS303 & FS 304	x2 Screen Boxes	500872/500873	Miramichi attached to Company owned chassis
52652	4900FA	Western Star	5KJNAEAV78PY63491	Miramichi
23968	D8RII	2002 D8R	CAT00D8RH6YZ00958	Atcon laydown yard MRM
34983	D8R	Dozer	CAT00D8RA6YZ01704	Atcon laydown yard MRM
35037	385BL	excavator EX-3	CAT CLS00236	Atcon laydown yard MRM
35112	5130	Excavator	CAT05130BL4CS00202	Atcon laydown yard MRM
35292	775D	CAT 775d	CAT 8AS00234	Atcon laydown yard MRM
35293	775D	CAT 775d	CAT 8AS00230	Atcon laydown yard MRM
35294	775D	CAT DR6	CAT 8AS00246	Atcon laydown yard MRM
35463	D8RII	CAT D8R	CAT00D8RC6YZ01571	Atcon laydown yard MRM
41188	D10T	Tractor / Blade & ripper	CAT0D10TERJG00221	Atcon laydown yard MRM
41215	D10T	Dozer	CAT0D10TKRJG00242	Atcon laydown yard MRM
41353	D6R	Dozer	CAT00D6RTAAX01255	Atcon laydown yard MRM
41356	330CL	Excavator	CAT0330CTDKY03725	Atcon laydown yard MRM
42011	740	Articulated Truck	CAT00740VB1P00458	Atcon laydown yard MRM
42012	740	Articulated Truck	CAT00740VB1P00457	Atcon laydown yard MRM
42087	385CL	Excavator	CAT0385CVEDA00225	Atcon laydown yard MRM
42470	320CI	Excavator 60" bucket	CAT0320CEPAB03417	Atcon laydown yard MRM
42548	330CL	Excavator	cat0330cvdky03716	Atcon laydown yard MRM
42549	345CL	Excavator	CAT0345CEPJW00498	Atcon laydown yard MRM
42709	740	Articulated Truck	CAT00740CB1P00497	Atcon laydown yard MRM
42773	345CL	Excavator	CAT0345CLPJW00529	Atcon laydown yard MRM
42976	980H	Loader	CAT0980HLJMS00324	Atcon laydown yard MRM
42977	980H	Loader	CAT0980HTJMS00331	Atcon laydown yard MRM
42984	14H	Grader	CAT0014HEASE01489	Atcon laydown yard MRM
42984	GPS -TRIMBLE UNIT	GPS for 14H	1489	Atcon laydown yard MRM
42988	938G	Loader	CAT0938GTCRD01666	Atcon laydown yard MRM
43320	232B	Skid Steer	CAT0232BVSCH01270	Atcon laydown yard MRM
43496	773E	Off Highway Truck	CAT0773EEBDA01010	Atcon laydown yard MRM
43507	773E	Off Highway Truck	CAT0773EVBDA01003	Atcon laydown yard MRM
43743	14H	Motor Grader	CAT0014HJASE01645	Atcon laydown yard MRM
44483	773E	Rock Truck	CAT0773ELBDA01019	Atcon laydown yard MRM
45718	980H	CAT 980 LOADER	CAT0980HLJMS00968	Atcon laydown yard MRM
45719	14H	Grader	CAT0014HPASE01643	Atcon laydown yard MRM
45740	938GII	Loader	CAT0938GCRTB01266	Atcon laydown yard MRM
46248	740	ROCK TRUCK	CAT00740JB1P01221	Atcon laydown yard MRM
47000	330DL	Excavator	CAT0330DHMWP00463	Atcon laydown yard MRM
47320	330DL	Excavator	CAT0330DKMWP00549	Atcon laydown yard MRM
48014	740	740 TRUCK	CAT00740JB1P01400	Atcon laydown yard MRM
48015	330DL	Excavator	CAT0330DKHAS00278	Atcon laydown yard MRM
48050	740	740 TRUCK	CAT00740LB1P01399	Atcon laydown yard MRM
48367	938GII	Loader	CAT0938GCCRD01818	Atcon laydown yard MRM
48508	D8	Dozer	CAT00D8TPJ8B00822	Atcon laydown yard MRM
49916	330DL	Excavator	CAT0330DKNBD00213	Atcon laydown yard MRM
49918	330DL	Excavator	CAT0330DJNBD00214	Atcon laydown yard MRM
49919	D6R XL	Dozer	CAT00D6RKGJB00670	Atcon laydown yard MRM
51059	320CL	Excavator	CAT0320CLPAB07318	Atcon laydown yard MRM
51068	938GII	Loader	CAT0938GPCRD02172	Atcon laydown yard MRM
51640	GPS	GPS for 14H - TRIMBLE	SEO1643	Atcon laydown yard MRM
51948	D5G	Dozer	CAT00D5GCRKG02868	Atcon laydown yard MRM
54649-001	D125P-6 Genset	D125P-6	CAT00C66ASDA00565	Atcon laydown yard MRM
56683	330DL	Excavator	CAT0330DEMWP01095	Atcon laydown yard MRM
57085	330DL	Excavator	CAT0330DVMWP02094	Atcon laydown yard MRM
57443	777	Rock Truck	CAT0777FTJRP00657	Atcon laydown yard MRM
57444	777	Rock Truck	CAT0777FCJRP00656	Atcon laydown yard MRM
57446	777	Rock Truck	CAT0777FHJRP00654	Atcon laydown yard MRM
57457	773	Rock Truck	CAT0773FKEED00431	Atcon laydown yard MRM
57458	773	Rock Truck	CAT0773FEEED00424	Atcon laydown yard MRM
57459	773	Rock Truck	CAT0773FJEED00432	Atcon laydown yard MRM
57460	773	Rock Truck	CAT0773FHEED00423	Atcon laydown yard MRM
57463	777	Rock Truck	CAT0777FEJRP00655	Atcon laydown yard MRM
57607	773	Rock Truck	CAT0773FCEED00433	Atcon laydown yard MRM
57609	773	Rock Truck	CAT0773FCEED00425	Atcon laydown yard MRM
59618	777	Rock Truck	CAT0777FPJRP01406	Atcon laydown yard MRM
59879		Dozer	CAT00D6NCDJY00349	Atcon laydown yard MRM
60656	777	Rock Truck	CAT0777FLJRP01446	Atcon laydown yard MRM
60657	777	Rock Truck	CAT0777FAJRP01445	Atcon laydown yard MRM
60658	777	Rock Truck	CAT0777FKJRP01407	Atcon laydown yard MRM
60986	777	Rock Truck	CAT0777FEJRP01448	Atcon laydown yard MRM
60989	777	Rock Truck	CAT0777FHJRP01447	Atcon laydown yard MRM
61605	777	Rock Truck	CAT0777FJJRP01408	Atcon laydown yard MRM

61607	777	Rock Truck	CAT0777FCJRP01409	Atcon laydown yard MRM
61618	777	Rock Truck	CAT0777FVJRP01444	Atcon laydown yard MRM
61619	777	Rock Truck	CAT0777FCJRP01443	Atcon laydown yard MRM
62676	Bucket	18 Cu Ft Bucket for 5130	CAT 7LW00890	Atcon laydown yard MRM
54649-003	D125P-6	Generator	CAT00V66KSDA00253	Atcon laydown yard MRM
43038	TH460B	Telescopic handler	CATTH460JSLF01819	Caterpillar - Finning - Fort MacKay
35458	CS-583	Compactor	CATCS583TCNX00317	Caterpillar - Finning - Fort MacKay
41190	CS563	Compactor	CATCS563ACNG01141	Fort MacKay Industrial Park
41982	938G		CAT0938GARTB01195	Fort MacKay Industrial Park
42094	CS-583E	Compactor	CATCS583HCNX00345	Fort MacKay Industrial Park
45112	3507	Generator	CAT00000CCNB01609	Fort MacKay Industrial Park
45748	248B	Skid Steer	CAT0248BJSCL00390	Fort MacKay Industrial Park
46200	Genset D50P4	Genset	OLY00000JD4P00957	Fort MacKay Industrial Park
46825	TH460B	Telehandler	CATTH460JSLF02629	Fort MacKay Industrial Park
48366	TH460	Telehandler	CATTH460TSLF02772	Fort MacKay Industrial Park
50704	446D	BackHoe	CAT0446DTDBL00666	Fort MacKay Industrial Park
50710	287	Skidsteer	CAT0287BCZSA01908	Fort MacKay Industrial Park
51067	287B	Skidsteer	CAT0287BJZSA03647	Fort MacKay Industrial Park
51309	Sander	Trailer & Snowblade	065146 & PW001	Fort MacKay Industrial Park
59878		Skid Steer	CAT0277CPJWF00422	Fort MacKay Industrial Park
42551	683	Compactor	CATCS683KASG00308	Fort MacKay Industrial Park
45112	53'	Elrus 53' Control Trailer	2MN01JAH321002404	Fort MacKay Industrial Park
40916	330CL	Excavator	CAT0330CLDKY03718	Miramichi - NB, 67/69 General Manson Way
41245	D6R		CAT00D6RCAAX01254	Miramichi - NB, 67/69 General Manson Way
42414	CS-423	Compactor	CATCS423EBWG00164	Miramichi - NB, 67/69 General Manson Way
42978	980H	Loader	CAT0980HCJMS00349	Miramichi - NB, 67/69 General Manson Way
43481	938GII	Loader	CAT0938GCCRD01665	Miramichi - NB, 67/69 General Manson Way
45715	TH460	Telehandler	CATTH460LSLF02586	Miramichi - NB, 67/69 General Manson Way
45744	248B	Skid Steer	CAT0248BLSCL00508	Miramichi - NB, 67/69 General Manson Way
46627	D8T	Dozer	CAT00D8TAKPZ01245	Miramichi - NB, 67/69 General Manson Way
52858	4900FA	Western Star	5KJJAEAV48PY63513	Miramichi - NB, 67/69 General Manson Way
52862	4900FA	Western Star	5KJJAEAV08PY63511	Miramichi - NB, 67/69 General Manson Way
52870	4900FA	Western Star	5KJJAEAV58PY63505	Miramichi - NB, 67/69 General Manson Way
52874	4900FA	Western Star	5KJJAEAV38PY63504	Miramichi - NB, 67/69 General Manson Way
53517	CS-563	Compactor	CATCS563LCNG02145	Miramichi - NB, 67/69 General Manson Way
35295	16H Motor Grader	SOLD (CFSL AGREES CONTRACT DISPOSED)	298	SOLD
42287	D5 with Blade	RETURNED OFF LEASE (CFSL agrees - o/s return charges)	CAT00D5GCWGB02014	RETURNED
47673	CAT	Trimble GPS for 14H on contract 45719	1546J006SM	Atcon laydown yard MRM - Attached to grader
60978	S130	McCloskey Dbl Seck Screener	66248	Miramichi - Maintenance Shop - 67/69 General Manson Way
46934	TH460	Telehandler	CATTH460PSLF02627	Deh Cho Camp Site - NT
59877	Genset 3306	Genset	CAT00000AB8D01347	Deh Cho Camp Site - NT
40926	330CL		CAT0330CADKY03720	Vale Inco - NL
41013	CS-583E		CATCS583ECNX00346	Vale Inco - NL
41380	330CL		CAT0330CCDKY03715	Vale Inco - NL
41381	330CL		CAT0330CHDKY03719	Vale Inco - NL
42494	53'	Genset 3508 (CNB01481)	2MN01JAH211002862	Vale Inco - NL
43276	H180	Hammer	9PM04061	Vale Inco - NL
45657	3512		CAT00000CCMC01447	Vale Inco - NL
45741	D6N XL		CAT00D6NTAKM01691	Vale Inco - NL
45742	D6R II XL		CAT00D6REAAX01334	Vale Inco - NL
45753	232B		CAT0232BESCH00884	Vale Inco - NL
46626	D10T		CAT0D10TPRJG00515	Vale Inco - NL
47001	C330DL		CAT0330DPMWP00548	Vale Inco - NL
47818	385CL		CAT0385CPEDA00347	Vale Inco - NL
48754	232B		CAT0232BESCH01646	Vale Inco - NL
49920	CS-563E		CATCS563PCNG01794	Vale Inco - NL
51066	D8T		CAT00D8TEKPZ01556	Vale Inco - NL
56865	330DL		CAT0330DAMWP02081	Vale Inco - NL
34994	320CL	Excavator	CAT0320CJPAB02145	ENVIREM TECHNOLOGIES
41077	mortgage	Prom Note	Mortgages/Real Estate (1)	ATCON HOLDINGS
43441	322CL	Excavator	CAT0322CVHEK01099	ENVIREM TECHNOLOGIES
58941			Promissory Note/Security Agreement	Non-Job
41348-001	322CL	Excavator	CAT0322CVHEK00986	Miramichi
28222-001	320C	Excavator	CAT0320CCPAB00669	Miramichi
64960	950GII	Wheel Loader	CAT0950GTAXX01806	Miramichi

APPENDIX "E"

Caterpillar Financial Services Limited

700 Dorval Drive, Suite 705
Oakville, Ontario L6K 3V3

TEL (905) 849-3003
FAX (905) 849-5512

April 15, 2008

Atcon Construction Limited
Newcastle Blvd.
Miramichi, N.B.

Attention: Robbie Tozer

Caterpillar Financial Services Limited ("CFSL") is pleased to present you with the following proposal for financing. CFSL are proposing a Term Loan in the amount of $1,500,000.00 with all remaining conditional sale contracts and or Cat Financial Lease Agreements between Atcon Construction Limited and CFSL to remain in affect and unchanged. The $1,500,000.00 would be advanced under the following terms and conditions.

Borrower: Atcon Construction Limited

Amount: **$ 1,500,000.00**

Interest Rate: Fixed Rate of 6.85%.

Repayment: Fixed Rate: 48 Months - Finance Amount $1,502,500.00 – Payment $60,638.41 (Principal and Interest, skip payments December to April each year).

Collateral Security: The security to be in a form and substance satisfactory to CFSL and will include the following:

i) Corporate guarantee from Atcon Holdings Limited
ii) See attached list of equipment.

General Conditions:

i) Satisfactory searches and waivers where applicable;
ii) Receipt of the stipulated security in form and substance satisfactory to the CFSL and its solicitors, together with such corporate authorizations and legal opinions as CFSL and its solicitors require;
iii) **Expenses:** All costs and expenses incurred by Lender in connection with preparation, execution, registration and enforcement of the loan and security documents, including fees of outside counsel for Lender paid by Borrower.

Expenses: The Borrower agrees to pay a fee of $2,500.00.

If you are in agreement with the foregoing terms and conditions, please evidence your acceptance by signing in the space below and returning a copy of this letter to the undersigned.

Yours very truly,

Stephen Snair
Senior Territory Manager

We acknowledge and accept the within terms and conditions this 16 day of April, 2008.

Atcon Construction Limited

Per: K. Donovan

~~905-815-2250~~
905-849-1023

Caterpillar Financial Services Limited

DIRECT PAY (PRE-AUTHORIZED PAYMENT) SERVICE AUTHORIZATION

CUSTOMER INFORMATION (Please print clearly)

Name: ATCON CONSTRUCTION INC.

Address: 626 Newcastle Blvd.
Miramichi, New Brunswick, E1V 2L3

Home Phone: Business Phone:

FOR CFSL USE ONLY
Contract No. ______
Term: ______
Start Date: ______
CSC ☐ or Lease ☐

BANKING INFORMATION – PLEASE ATTACH VOID CHEQUE

SIGNATURES

I/We hereby authorize Caterpillar Financial Services Limited to debit my/our account indicated above for the purpose of **Promissory Note/Security Agreement** payment:

☒a) in 48 monthly installments of $60,334.15 except during the months of Jan/Feb/Mar/Apr & Dec
☐b) in accordance with the schedule of Irregular Payments below.

The Customer acknowledges that the amounts withdrawn from the Account may vary each month according to the terms of the lease, loan, service contract, or other form of agreement (the "Contract") between the Customer and the Company. The Customer warrants and guarantees that all persons whose signatures are required to sign on the Account have signed this Authorization. The Customer acknowledges that delivery of this Authorization to the Company constitutes delivery by the Customer to the branch of the financial institution at which the Account is maintained and that such financial institution is not required to verify that the payments are drawn in accordance with this Authorization. The Customer agrees that should the Account be transferred to another branch of the financial institution or the Account is closed and another account is opened at another financial institution this Authorization shall have the same force and effect as if it has originally been directed to that branch or financial institution. The Customer agrees that termination of this Authorization does not cancel or reduce the obligations of the Customer under the Contract. The Customer agrees to make payments promptly on any late fees or NSF fees in a timely manner associated with the contract. The Customer agrees to notify the Company, in writing, of any changes in the account information, or termination of the authorization at least thirty (30) days prior to the next due date of the direct pay (pre-authorized) withdrawal.

Description of Equipment : **See Schedule "A"**

X K. Donovan 5/28/08
Signature Date

X
Signature Date

★For a joint account, all depositors must sign if more than on signature is required on cheques issued against the account.

SCHEDULE OF IRREGULAR PAYMENTS

No. of Instalments	From (Date)	to (Date)	Amount of Instalment

Breakdown of Payment
(Lease Contracts Only)

Rental $
GST/HST $
PST $
TOTAL $

Customer Name Atcon
Off the Books
Date 03/11/2008

Make	Model	Year	Serial Number
Gencor Plant	300TPH	1998	BHCFP1166236498
Caterpillar	CB-534	2003	EAA00147
Cedar Rapids	CR461	1998	47024
Bomag	BW20R	1999	2O1530301008
Dynapac	CC422	1997	62510474
Volvo	Dynex	1987	60410
Shutle Buggy	SB2500	1998	SB2500X432
Truck	Service	1987	1HTLDTVRHH527462
Ford	Crew Cab	1991	2FTJW35G1MCA82961
Dodge	1500	1998	1B7HF1384WJ136386
John Deere	644	1998	DW644HX568162
Case	580K	1986	17028853
Case	Roller	1990	JKC7804109
Dodge	Ram	2001	1B7KF23WX1J559991
Dodge	Ram	2002	1D7HU18N42J244072
GMC	3/4 CARGO VAN	1997	1GTGG29R3V1092956
Mack	CL713	1995	1M2AD62Y6SW003026
Midland Hopper		1995	2M9B2S6C9TR018528
Midland Hopper		1995	2M9B2S6C0TR018529
Chev	1 Ton	1996	1GBJC34F8TE125156
Chev	1/2 Ton	1996	1GCGC33R8TF002601
Chev	1/2 Ton	1996	1GCEC14W1TZ156923
EGW	Tanker	1978	28013
Western Star		1992	2WKRDCCH2MK928915
Trailer	JC 20	1998	2J9C3V5C6WK001248
Ford	Cube Van	1987	1FDKE3017HHA13194
Ford	Cube Van	1988	1FDKE30M7JHC13217
IHC HWY Tractor		1991	2HXFBAGR8MC046308
Talbert Float		2000	40FWK604XY1019040
Two Light Towers		1997	9002D0679, 961037561
Plate Tampers		1998	24309
Diesel Compressor	BPR 35/38D	1999	101680451067

Wirth Drill	B-5	1991	PBM 56-0-35F
Delmag	D3032	1992	7431
Ford New Holland	575D	1997	A437197
Caterpillar	D5C	1995	9DL1097
Radial Stacker		1991	TRA5202
Volvo	L90B	1994	61488
Caterpillar	325L	1994	2SL00480
Caterpillar	980F	1993	8CJ00563
Caterpillar	980F	1992	5XJ00363
Caterpillar	IT28B	1992	1HF02057
Atals Copco	HC722	1990	7530
Atlantic	Boom Lift	2000	300016037
INTERNATIONAL	DUMP TRUCK	1987	1HTZNDBR6HHA24964
WHITE SNOWBLOWER - 10.5 HP 30" CUT		2000	1H161I30083
CASE	CARRYDECK CRANE	1984	X6225739
CASE	CARRYDECK CRANE	1984	X6225740
IC 80-20 BRODERSON CRANE		1989	142216
IC 180 BRODERSON CRANE		1985	158B
LIMA	35T	1969	4854-7
ROTOBEC	GRAPPLE	1999	6007-9150
ELECTRIC PORTABLE TRUCK SCALE		1995	95C089
VIBRATING CRUSHER FEEDER		1989	47447 52X20
CEDARAPIDS	30-42 JAW	1997	2T9U15235W1005252
ROCK CRUSHER	36x46 Telsmith Jaw	1989	222M7824
VOLVO	L120B LOADER	1994	L120BV61016
INGERSOLL RAND	AIR DRILL	1998	R11049AD
TRAC	FLAT BED B-TRAIN	1997	2T9N7B237V1005237
TRAC	FLAT BED B-TRAIN	1997	2T9N7B237V1005238
TRAC	TRIDEM BELLY DUMP	1997	2T9GIJ239W1005262
TRAC	TRIDEM BELLY DUMP	1998	2T9GIJ236X1005284
CAT	330L	1995	5YM01248

CAT	140G	1995	72V17605
CAT	3412 GEN SET	1997	2WJ01180
CAT	966F	1992	4YG01085
CEDARAPIDS	66" CONE	1998	47314
40'	BELLY DUMP	1999	2T9G1J232W1005265
Sterling	LT9513	1999	2FZKWEBXXAA49491

Caterpillar Financial Services Limited: **700 Dorval Drive**
Suite 705
Oakville, Ontario
L6K 3V3

SECURITY AGREEMENT

For valuable consideration, the undersigned (the "Customer") agrees with Caterpillar Financial Services Limited ("Cat Finance") as follows:

1. **GRANT OF SECURITY**. The Customer mortgages, charges and assigns to Cat Finance, and grants to Cat Finance, and Cat Finance takes, a Security Interest in *[check appropriate box or boxes and initial next to same]*:

____ initial	All Personal Property:	all of the Customer's present and after-acquired undertaking and Personal Property (including the property described or referred to in Schedule A);
X initial	Specific Personal Property:	the personal property described in Schedule "A" together with any Accessions;
____ initial	Receivables:	all of the Customer's present and after-acquired Receivables, limited as specified in 8.1 below;
____ initial	Inventory:	all of the Customer's present and after-acquired Inventory;
____ initial	Equipment:	all of the Customer's present and after-acquired Equipment, not including Inventory;

(all of the foregoing being herein referred to as the "Collateral") as a general and continuing collateral security for the due payment and performance of the Liabilities.

2. **GOVERNING LAW**. This Agreement is governed by the laws of the Province of New Brunswick.

3. **PLACES OF BUSINESS**. The Customer represents and warrants that the locations of all existing Places of Business of the Customer are specified in Schedule "B". The Customer will promptly notify Cat Finance in writing of any additional Places of Business as soon

as they are established. Subject to section 5, the Collateral will at all times be located at or operated from the Places of Business, and will not be removed without Cat Finance's prior written consent.

4. **COLLATERAL FREE OF CHARGES**. The Customer represents and warrants that the Collateral is, and agrees that the Collateral will at all times be, free of any Charge or trust except in favour of Cat Finance or incurred with Cat Finance's prior written consent. Cat Finance may, but will not have to, pay any amount or take any action required to remove or redeem any unauthorized Charge. The Customer will immediately reimburse Cat Finance for any amount so paid and will indemnify Cat Finance in respect of any action so taken.

5. **USE OF COLLATERAL**. The Customer will not, without Cat Finance's prior written consent, sell, lease or otherwise dispose of any of the Collateral. All Proceeds of the Collateral, whether or not arising in the ordinary course of the Customer's business, will be received by the customer as trustee for Cat Finance and will be immediately paid to Cat Finance.

6. **INSURANCE**. The Customer will keep the Collateral insured to its full insurable value against loss or damage by fire and such other risks as are customarily insured for property similar to the Collateral (and against such other risks as Cat Finance may reasonably require). At Cat Finance's request, all policies in respect of such insurance will contain a loss payable clause, and a mortgage clause, in favour of Cat Finance and in any event the Customer assigns all proceeds of insurance on the Collateral to Cat Finance as its interest may appear. The Customer will, from time to time at Cat Finance's request, deliver such policies (or satisfactory evidence of such policies) to Cat Finance. If the Customer does not obtain or maintain such insurance, Cat Finance may, but will not have to, do so. The Customer will immediately reimburse Cat Finance for any amount so paid. The Customer will promptly give Cat Finance written notice of any loss or damage to all or any part of the Collateral.

7. **INFORMATION AND INSPECTION**. The Customer will from time to time immediately give Cat Finance in writing all information requested by Cat Finance relating to the Collateral, the Places of Business, and the Customer's financial or business affairs. The Customer will promptly advise Cat Finance of the Serial Number, model year, make and model of each Serial Number Good at any time included in the Collateral that is held as Equipment, including in circumstances where the Customer ceases holding such Serial Number Good as Inventory and begins holding it as Equipment. Cat Finance may from time to time inspect any Books and Records and any Collateral, wherever located. For that purpose Cat Finance may, without charge, have access to each Place of Business and to all mechanical or electronic equipment, devices and processes where any of them may be stored or from which any of them may be retrieved. The Customer authorizes any Person holding any Books and Records to make them available to Cat Finance, in a readable form, upon request by Cat Finance.

8. **RECEIVABLES**. If the Collateral includes Receivables, Cat Finance may advise any Person who is liable to make any payment to the Customer of the existence of this Agreement. Cat Finance may from time to time confirm with such Persons the existence and the amount of the Receivables. Upon Default, Cat Finance may collect and otherwise deal with the Receivables in such manner and upon such terms as Cat Finance considers appropriate.

9. **RECEIPTS PRIOR TO DEFAULT**. Until Default, all amounts received by Cat Finance as Proceeds of the Collateral will be applied on account of the Liabilities in such manner and at such times as Cat Finance may consider appropriate or, at Cat Finance's option, may be held unappropriated in a collateral account or released to the Customer.

10. **DEFAULT**.

(1) **Events of Default**. The occurrence of any of the following events or conditions will be a Default:

(a) the Customer does not pay any of the Liabilities when due;

(b) the Customer does not observe or perform any of the Customer's obligations under this Agreement or any other agreement or document existing at any time between the Customer and Cat Finance;

(c) any representation, warranty or statement made by or on behalf of the Customer to Cat Finance is untrue in any material respect at the time when or as of which it was made;

(d) the Customer ceases or threatens to cease to carry on in the normal course the Customer's business or any material part thereof;

(e) if the Customer is a corporation, there is, in Cat Finance's reasonable opinion, a change in effective control of the Customer, or if the Customer is a partnership, there is a dissolution or change in the membership of the partnership;

(f) the Customer becomes insolvent or bankrupt or makes a proposal or files an assignment for the benefit of creditors under the Bankruptcy and Insolvency Act (Canada) or similar legislation in Canada or any other jurisdiction; a petition in bankruptcy is filed against the Customer; or, if the Customer is a corporation, steps are taken under any legislation by or against the Customer seeking its liquidation, winding-up, dissolution or reorganization or any arrangement or composition of its debts;

(g) a Receiver, trustee, custodian or other similar official is appointed in respect of the Customer or any of the Customer's property;

(h) the holder of a Charge takes possession of all or any part of the customer's property, or a distress, execution or other similar process is levied against all or any part of such property, which in Cat Finance's sole opinion, would materially affect the operational viability of the company; or

(i) Cat Finance, in good faith and upon commercially reasonable grounds, believes that the prospect of payment or performance is or is about to be impaired or that the Collateral is or is about to be placed in jeopardy.

(2) **Rights upon Default**. Upon Default, Cat Finance and a Receiver, as applicable, will to the extent permitted by law have the following rights.

(a) **Appointment of Receiver**. Cat Finance may by instrument in writing appoint any Person as a Receiver of all or any part of the Collateral. Cat Finance may from time to time remove or replace a Receiver, or make application to any court of competent jurisdiction for the appointment of a Receiver. Any Receiver appointed by Cat Finance will (for purposes relating to responsibility for the Receiver's acts or omissions) be considered to be the Customer's agent. Cat Finance may from time to time fix the Receiver's remuneration. Cat Finance will not be liable to the Customer or any other Person in connection with appointment or not appointing a Receiver or in connection with the Receiver's actions or omissions.

(b) **Dealings with the Collateral**. Cat Finance or a Receiver may take possession of all or any part of the Collateral and retain it for as long as Cat Finance or the Receiver considers appropriate, receive any rents and profits from the Collateral, carry on (or concur in carrying on) all or any part of the Customer's business or refrain from doing so, borrow on the security of the Collateral, repair the Collateral, process the Collateral, prepare the Collateral for sale, lease or other disposition, and sell or lease (or concur in selling or leasing) or otherwise dispose of the Collateral on such terms and conditions (including among other things by arrangement providing for deferred payment) as Cat Finance or the Receiver considers appropriate. Cat Finance or the Receiver may (without charge and to the exclusion of all other Persons including the Customer) enter upon any Place of Business.

(c) **Realization**. Cat Finance or a Receiver may use, collect, sell, lease or otherwise dispose of, realize upon, release to the Customer or other Persons and otherwise deal with, the Collateral in such manner, upon such terms (including among other things by arrangement providing for deferred payment) and at such times as Cat Finance or the Receiver considers appropriate. Cat Finance or the Receiver may make any sale, lease or other disposition of the Collateral in the name of and on behalf of the Customer or otherwise.

(d) **Application of Proceeds After Default**. All Proceeds of Collateral received by Cat Finance or a Receiver may be applied to discharge or satisfy any expenses (including among other things the Receiver's remuneration and other expenses of enforcing Cat Finance's rights under this Agreement), Charges, borrowings, taxes and other outgoings affecting the Collateral or which are considered advisable by Cat Finance or the Receiver to preserve, repair, process, maintain or enhance the Collateral or prepare it for sale, lease or other disposition, or to keep in good standing any Charges on the Collateral ranking in priority to any Charge created by this Agreement, or to sell, lease or otherwise dispose of the Collateral. The balance of such Proceeds will be applied to the Liabilities in such manner and at such times as Cat Finance considers appropriate and thereafter will be accounted for as required by law.

(3) **Other Legal Rights**. Before and after Default, Cat Finance will have, in addition to the rights specifically provided in this Agreement, the rights of a secured party under the PPSA, as well as the rights recognized at law and in equity. No right will be exclusive of or dependent upon or merge in any other right, and one or more of such rights may be exercised independently or in combination from time to time.

(4) **Deficiency**. The Customer will remain liable to Cat Finance for payment of any Liabilities that are outstanding following realization of all or any part of the Collateral.

11. CAT FINANCE NOT LIABLE. Cat Finance will not be liable to the Customer or any other Person for any failure or delay in exercising any of its rights under this Agreement (including among other things any failure to take possession of, collect, or sell, lease or otherwise dispose of, any Collateral). None of Cat Finance, a Receiver or any agent of Cat Finance is required to take, or will have any liability for any failure to take or delay in taking, any steps necessary or advisable to preserve rights against other Persons under any Chattel Paper, Securities or Instrument in possession of Cat Finance, a Receiver or Cat Finance's agent.

12. CHARGES AND EXPENSES. The Customer agrees to pay on demand all costs and expenses incurred (including among other things legal fees on a solicitor and client basis) and fees charged by Cat Finance in connection with obtaining or discharging this Agreement or establishing or confirming the priority of the Charges created by this Agreement or by law, compliance with any demand by any Person under the PPSA to amend or discharge any registration relating to this Agreement, and by Cat Finance or any Receiver in exercising any remedy under this Agreement (including among other

things preserving, repairing, processing, preparing for disposition and disposing of the Collateral by sale, lease or otherwise) and in carrying on the Customer's business. All such amounts will bear interest from time to time at the highest interest rate then applicable to any of the Liabilities, and the Customer will reimburse Cat Finance upon demand for any amount so paid.

13. **FURTHER ASSURANCES**. The Customer will from time to time immediately upon request by Cat Finance take such action (including among other things the signing and delivery of financing statements and financing change statements, other schedules, documents or listings describing property included in the Collateral, further assignments and other documents, and the registration of this Agreement or any other Charge against any of the Customer's real property) as Cat Finance may require in connection with the Collateral or as Cat Finance may consider necessary to give effect to this Agreement. If permitted by law, the Customer waives the right to sign or receive a copy of any financing statement or financing change statement, or any statement issued by any registry that confirms any registration of a financing statement or financing change statement, relating to this Agreement. The Customer irrevocably appoints the National Credit Manager or any Customer Service Representative from time to time of Cat Finance as the Customer's attorney (with full powers of substitution and delegation) to sign, upon Default, all documents required to give effect to this section. Nothing in this section affects the right of Cat Finance as secured party, or any other Person on Cat Finance's behalf, to sign and file or deliver (as applicable) all such financing statements, financing change statements, notices, verification agreements and other documents relating to the Collateral and this Agreement as Cat Finance or such other Person considers appropriate.

14. **DEALINGS BY CAT FINANCE**. Cat Finance may from time to time increase, reduce, discontinue or otherwise vary the Customer's credit facilities, grant extensions of time and other indulgences, take and give up any Charge, abstain from taking, perfecting or registering any Charge, accept compositions, grant releases and discharges and otherwise deal with the Customer, customers of the Customer, guarantors and others, and with the Collateral and any Charges held by Cat Finance, as Cat Finance considers appropriate without affecting the Customer's obligations to Cat Finance or Cat Finance's rights under this Agreement.

15. **DEFINITIONS**. In this Agreement:

"Accessions", "Account", "Chattel Paper", "Document of Title", "Equipment", "Goods", "Instrument", "Intangible", "Inventory", "Proceeds", "Purchase-Money Security Interest" and "Security Interest" have the respective meanings given to them in the PPSA.

"Books" and "Records" mean all books, records, files, papers, disks, documents and other repositories of data recording, evidencing or relating to the Collateral to which the Customer (or any Person on the Customer's behalf) has access.

"Charge" means any mortgage, charge, pledge, hypothecation, lien (statutory or otherwise), assignment, financial lease, title retention agreement or arrangement, security interest or other encumbrance of any nature however arising, or any other security agreement or arrangement creating in favour of any creditor a right in respect of a particular property that is prior to the right of any other creditor in respect of such property.

"Consumer Goods" has the meaning given to it in the PPSA.

"Default" has the meaning set out in subsection 10(1).

"Liabilities" means all present and future indebtedness and liability of every kind, nature and description (whether direct or indirect, joint or several, absolute or contingent, matured or unmatured) of the Customer to Cat Finance, wherever and however incurred and any unpaid balance thereof.

"Money" has the meaning given to it in the PPSA or, if there is no such definition, means a medium of exchange authorized or adopted by the Parliament of Canada as part of the currency of Canada, or by a foreign government as part of its currency.

"Person" means any natural person or artificial body (including among others any firm, corporation or government).

"Personal Property" means personal property and includes among other things Inventory, Equipment, Receivables, Books and Records, Chattel Paper, Goods, Documents of Title, Instruments, Intangibles (including intellectual property), Money and Securities, and includes all Accessions to such property.

"Place of Business" means a location where the Customer carries on business or where any of the Collateral is located (including any location described in Schedule B).

"PPSA" means the legislation that applies in the province or territory noted in section 2 of this Agreement, as such legislation may be amended, renamed or replaced from time to time (and includes all registrations from time to time made under such legislation) as follows: in the case of Ontario, the *Personal Property Security Act*, 1989; in the case of Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Saskatchewan and the Yukon Territory, the Personal Property Security Act; and in the case of any other province or territory, such legislation as deals generally with Charges on personal property.

"Receivables" means all debts, claims and choses in action (including among other things Accounts and Chattel Paper) now or in the future due or owing to or owned by the Customer.

"Receiver" means a receiver or a receiver and manager.

"Securities" has the meaning given to it in the PPSA or, if there is no such definition and the PPSA defines "security" instead, it means the plural of that term.

"Serial Number" means the number that the Person who manufactured or constructed a Serial Number Good permanently marked or attached to it for identification purposes or, if applicable, such other number as the PPSA stipulates as the serial number or vehicle information number to be used for registration purposes of such Serial Number Good.

"Serial Number Good" means a motor vehicle, trailer, mobile home, aircraft airframe, aircraft engine or aircraft propeller, boat or an outboard motor for a boat.

16. GENERAL.

(1) **Reservation of the Last Day of any Lease**. The Charges created by this Agreement do not extend to the last day of the term of any lease or agreement for lease; however, the Customer will hold such last day in trust for Cat Finance and, upon the exercise by Cat Finance of any of its rights under this Agreement following Default, will assign such last day as directed by Cat Finance.

(2) **Attachment of Security Interest**. The Security Interests created by this Agreement are intended to attach (i) to existing Collateral when the Customer signs this Agreement, and (ii) to Collateral subsequently acquired by the Customer, immediately upon the Customer acquiring any rights in such Collateral. The parties do not intend to postpone the attachment of any Security Interest created by this Agreement.

(3) **Purchase-Money Security Interest**. If Cat Finance gives value for the purpose of enabling the Customer to acquire rights in or to any of the Collateral, the Customer will in fact apply such value to acquire those rights (and will provide Cat Finance with such evidence in this regard as Cat Finance may require), and the Customer grants to Cat Finance, and Cat Finance takes, a Purchase-Money Security Interest in such Collateral to the extent that the Value is applied to acquire such rights. A certificate or affidavit of any of the Cat Finance's authorized representatives is admissible in evidence to establish the amount of any such value.

(4) **Entire Agreement**. Cat Finance has not made any representation or undertaken any obligation in connection with the subject matter of this Agreement other than as specifically set out in this Agreement, and in particular nothing contained in this Agreement will require Cat Finance to make, renew or extend the time for payment of any loan or other credit accommodation to the Customer or any other Person.

(5) **Additional Security**. The Charges created by this Agreement are in addition and without prejudice to any other Charge now or later held by Cat Finance. No Charge held by Cat Finance will be exclusive of or dependent upon

or merge in any other charge, and Cat Finance may exercise its rights under such Charges independently or in combination.

(6) **Joint and Several Liability**. If more than one Person signs this Agreement as the Customer, the obligations of such Persons will be joint and several.

(7) **Severability; Headings**. Any provision of this Agreement that is void or unenforceable in any jurisdiction is, as to that jurisdiction, ineffective to that extent without invalidating the remaining provisions of this Agreement. The headings in this Agreement are for convenience only and do not limit or extend the provisions of this Agreement.

(8) **Interpretation**. When the context so requires, the singular will be read as plural, and vice versa.

(9) **Copy of Agreement**. The Customer acknowledges receipt of a copy of this Agreement.

(10) **Waivers**. The Customer specifically waives the right to receive any verification statement with respect to any security filings conducted by or on behalf of Cat Finance regarding the security constituted by this Agreement.

(11) **Notice**. Cat Finance may send to the Customer, by prepaid regular mail addressed to the Customer at the Customer's address last known to Cat Finance, copies of any document required by the PPSA to be delivered by Cat Finance to the Customer. Any document mailed in this manner will be deemed to have been received by the Customer upon the earlier of actual receipt by the Customer and the expiry of 10 days after the mailing date. A certificate or affidavit of any of Cat Finance's authorized representatives is admissible in evidence to establish the mailing date.

(12) **Enurement; Assignment**. This Agreement will enure to the benefit of and be binding upon (i) Cat Finance, its successors and assigns, and (ii) the Customer and the Customer's heirs, executors, administrators, successors and permitted assigns. The Customer will not assign this Agreement without Cat Finance's prior written consent.

The Customer has executed this Agreement as of April 28, 2008.

ATCON CONSTRUCTION INC.

Per: Robert Tozer, President

SCHEDULE "A"

Customer Name Atcon Construction Inc.
Date 03/11/2008

Make	Model	Year	Serial Number
Gencor Plant	300TPH	1998	BHCFP1166236498
Caterpillar	CB-534	2003	EAA00147
Cedar Rapids	CR461	1998	47024
Bomag	BW20R	1999	2O1530301008
Dynapac	CC422	1997	62510474
Volvo	Dynex	1987	60410
Shutle Buggy	SB2500	1998	SB2500X432
Truck	Service	1987	1HTLDTVRHH527462
Ford	Crew Cab	1991	2FTJW35G1MCA82961
Dodge	1500	1998	1B7HF1384WJ136386
John Deere	644	1998	DW644HX568162
Case	580K	1986	17028853
Case	Roller	1990	JKC7804109
Dodge	Ram	2001	1B7KF23WX1J559991
Dodge	Ram	2002	1D7HU18N42J244072
GMC	3/4 CARGO VAN	1997	1GTGG29R3V1092956
Mack	CL713	1995	1M2AD62Y6SW003026
Midland Hopper		1995	2M9B2S6C9TR018528
Midland Hopper		1995	2M9B2S6C0TR018529
Chev	1 Ton	1996	1GBJC34F8TE125156
Chev	1/2 Ton	1996	1GCGC33R8TF002601
Chev	1/2 Ton	1996	1GCEC14W1TZ156923
EGW	Tanker	1978	28013
Western Star		1992	2WKRDCCH2MK928915
Trailer	JC 20	1998	2J9C3V5C6WK001248
Ford	Cube Van	1987	1FDKE3017HHA13194
Ford	Cube Van	1988	1FDKE30M7JHC13217
IHC HWY Tractor		1991	2HXFBAGR8MC046308
Talbert Float		2000	40FWK604XY1019040
Two Light Towers		1997	9002D0679, 961037561
Plate Tampers		1998	24309
Diesel Compressor	BPR 35/38D	1999	101680451067
Wirth Drill	B-5	1991	PBM 56-0-35F
Delmag	D3032	1992	7431
Ford New Holland	575D	1997	A437197
Caterpillar	D5C	1995	9DL1097
Radial Stacker		1991	TRA5202
Volvo	L90B	1994	61488
Caterpillar	325L	1994	2SL00480
Caterpillar	980F	1993	8CJ00563
Caterpillar	980F	1992	5XJ00363
Caterpillar	IT28B	1992	1HF02057
Atals Copco	HC722	1990	7530
Atlantic	Boom Lift	2000	300016037
INTERNATIONAL	DUMP TRUCK	1987	1HTZNDBR6HHA24964

WHITE SNOWBLOWER - 10.5 HP 30" CUT		2000	1H161I30083
CASE	CARRYDECK CRANE	1984	X6225739
CASE	CARRYDECK CRANE	1984	X6225740
IC 80-20 BRODERSON CRANE		1989	142216
IC 180 BRODERSON CRANE		1985	158B
LIMA	35T	1969	4854-7
ROTOBEC	GRAPPLE	1999	6007-9150
ELECTRIC PORTABLE TRUCK SCALE		1995	95C089
VIBRATING CRUSHER FEEDER		1989	47447 52X20
CEDARAPIDS	30-42 JAW	1997	2T9U15235W1005252
ROCK CRUSHER	36x46 Telsmith Jaw	1989	222M7824
VOLVO	L120B LOADER	1994	L120BV61016
INGERSOLL RAND	AIR DRILL	1998	R11049AD
TRAC	FLAT BED B-TRAIN	1997	2T9N7B237V1005237
TRAC	FLAT BED B-TRAIN	1997	2T9N7B237V1005238
TRAC	TRIDEM BELLY DUMP	1997	2T9GIJ239W1005262
TRAC	TRIDEM BELLY DUMP	1998	2T9GIJ236X1005284
CAT	330L	1995	5YM01248
CAT	140G	1995	72V17605
CAT	3412 GEN SET	1997	2WJ01180
CAT	966F	1992	4YG01085
CEDARAPIDS	66" CONE	1998	47314
40'	BELLY DUMP	1999	2T9G1J232W1005265
Sterling	LT9513	1999	2FZKWEBXXAA49491

SCHEDULE "B"

The following are the Places of Business *(if space is insufficient, use a separate sheet)*:

1. 626 Newcastle Blvd.
   Miramichi, NB E1V 2L3

2. 65 General Manson Way
   Miramichi, NB

Note: It is understood that the equipment may be used at various job sites throughout the province of New Brunswick from time to time as required in the normal course of business.

PROMISSORY NOTE

1. **Principal and Interest.** For value received, **ATCON CONSTRUCTION INC.**, (the "Borrower") at 626 Newcastle Boulevard, Miramichi, New Brunswick, E1V 2L3, hereby promises to pay to or to the order of **CATERPILLAR FINANCIAL SERVICES LIMITED** ("Caterpillar") at 700 Dorval Drive, Suite 705, Oakville, Ontario, L6K 3V3 (or at such other place as Caterpillar may from time to time designate by notice in writing to the Borrower)

(a) the principal sum of **ONE MILLION FIVE HUNDRED AND TWO THOUSAND FIVE HUNDRED DOLLARS ($1,502,500.00)** in lawful money of ***Canada*** (the "Principal"); and

(b) interest in like money on the unpaid portion from time to time of the Principal until the Principal is repaid in full at a rate of **6.85%** per annum, calculated monthly (on the basis of a 360 day year), not in advance, as well after as before maturity, default and judgment;

and the Principal and such interest (accruing from and including the ___ day of May, 2008) shall be payable in 48 equal blended installments of principal and interest in the amount of **$60,803.52** on the ___ day of each month (*with exception to the months of January, February, March, April and December of each year)* with the first such installment due and payable on the ____ day of June, 2008 and the last such installment due on the ___ day of May, 2012.

The balance of the principal and interest, if any, shall be due and payable on the ___ day of May, 2012.

Each rate of interest which is calculated with reference to a period (the "deemed interest period") that is less then the actual number of days in the calendar year of calculation is, for the purposes of the Interest Act (Canada), equivalent to a rate based on a calendar year equal to such rate of interest multiplied by the actual number of days in the calendar year of calculation and divided by the number of days in the deemed interest period.

2. **Late Payments.** Notwithstanding any other provision herein, in the event that default shall be made in payment of any sum hereunder at any time, such overdue payment shall bear interest before and after default and judgment at the rate of eighteen percent (18%) per annum, calculated yearly from the appointed time for payment.

3. **Prepayment.** At any time any portion of the Principal may be prepaid without any notice being given to Caterpillar and without any bonus or penalty being paid to Caterpillar provided that all amounts, whether on account of Principal or interest, which are due and payable hereunder have been paid and the Borrower pays to Caterpillar its then prevailing administration fee in respect of the prepayment. Any such prepayment shall be applied to Principal installments in inverse order of maturity.

4. **Acceleration on Default.** The unpaid balance of the Principal together with all interest accrued shall, at the option of Caterpillar, become due and payable and any security held by Caterpillar for the payment thereof shall, at the option of Caterpillar, become immediately enforceable on the occurrence of any of the following events.

(a) The Borrower makes default in the repayment of any installment of Principal or interest owing hereunder when it becomes due and payable;

(b) The Borrower breaches or is in default of any agreement entered in between Caterpillar and the Borrower;

(c) Any statement, representation or warranty made by the Borrower to Caterpillar is incorrect in any material respect;

(d) The Borrower ceases or threatens to cease to carry on business;

(e) The dissolution, termination of existence, insolvency, bankruptcy or business failure of the Borrower, or upon the application for or the appointment of a receiver or receiver-manager of any part of the property of the Borrower, or the commencement by or against the Borrower of any proceedings under any bankruptcy, arrangement, reorganization, dissolution, liquidation, insolvency or similar law for the relief of or otherwise affecting creditors of the Borrower, or by or against any guarantor or surety for the Borrower, or upon the issue of any writ of execution, warrant, attachment, sequestration, levy, third party demand or garnishment or similar process against the Borrower;

(f) The Borrower commits or threatens to commit an act of bankruptcy; and

(g) The institution by or against the Borrower of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of affairs of the Borrower.

5. **Waiver of Benefits.** The Borrower hereby waives the benefits of division and discussion, demand and resentment for payment, notice of nonpayment, protest and notice of protest of this promissory note.

IN WITNESS WHEREOF the Borrower has executed this promissory note as of the 27 day of May, 2008.

ATCON CONSTRUCTION INC.

Per: ______________________ (C/S)
Robert Tozer, President