

# Information Memorandum

## CNH CAPITAL AUSTRALIA RECEIVABLES TRUST

Agricultural and Construction Equipment Finance Lease,  
Commercial Hire Purchase and Goods Mortgage Backed  
Securitisation Programme

### **Class A1 Notes**

A\$421,500,000 Class A1 Floating Rate Pass-Through Notes  
Rated "AAA" by Standard & Poor's  
Rated "Aaa" by Moody's

### **Class A2 Notes**

A\$12,500,000 Class A2 Floating Rate Pass-Through Notes  
Rated "AA" by Standard & Poor's  
Rated "Aa3" by Moody's

### **Class B Notes**

A\$12,000,000 Class B Floating Rate Pass-Through Notes  
Rated "BBB" by Standard & Poor's  
Rated "A2" by Moody's

### **Arranger and Lead Manager**

SG Australia Limited  
(ABN 72 002 093 021)

### **Co-Manager**

Salomon Smith Barney Australia Securities Pty Limited  
(ABN 64 003 114 832)

[\*] September 2002

# CNH Capital Australia Receivables Trust

## Contents

PURPOSE OF THIS INFORMATION MEMORANDUM .....	6
TERMS AND DEFINITIONS .....	7
LIMITED RESPONSIBILITY .....	7
DATE OF THIS INFORMATION MEMORANDUM .....	9
AUTHORISATIONS .....	10
INTENDING PURCHASERS TO MAKE INDEPENDENT INVESTMENT DECISIONS....	10
DISTRIBUTION TO PROFESSIONAL INVESTORS ONLY .....	10
OFFER OR INVITATION .....	10
DISTRIBUTION .....	11
INVESTORS .....	11
LIMITED RECOVERY AGAINST TRUSTEE .....	12
DISCLOSURE OF INTERESTS.....	13
REFERENCES TO RATINGS .....	13
THE DEALERS.....	14
<b>1. ISSUE SUMMARY.....</b>	<b>15</b>
1.1 GENERAL INFORMATION.....	15
1.2 STRUCTURAL FEATURES.....	20
1.3 STRUCTURE DIAGRAM.....	27
1.4 THE POOL.....	29
1.5 FURTHER INFORMATION .....	29
<b>2. DESCRIPTION OF THE NOTES .....</b>	<b>33</b>
2.1 GENERAL .....	33
2.2 INTEREST PAYMENTS .....	33
2.3 REPAYMENT OF PRINCIPAL .....	35
2.4 CLEAN UP CALL FEATURE .....	36
2.5 PAYMENTS.....	37
2.6 THE REGISTER .....	37
2.7 ISSUE OF REGISTRATION CERTIFICATE .....	38
2.8 TRANSFERS .....	39
2.9 NOTEHOLDER AND SELLER NOTEHOLDER RIGHTS .....	40
2.10 NOTICES TO NOTEHOLDERS AND SELLER NOTEHOLDER .....	42
2.11 AUSTRACLEAR.....	42
2.12 CREDIT RATINGS.....	42
2.13 KEY DATES & PERIODS .....	43
<b>3. CNH CAPITAL AUSTRALIA PTY LIMITED .....</b>	<b>45</b>

# CNH Capital Australia Receivables Trust

3.1	BACKGROUND & HISTORY .....	45
3.2	ORIGINATION OF AGRICULTURAL AND CONSTRUCTION EQUIPMENT RECEIVABLES .....	46
3.3	UNDERWRITING GUIDELINES.....	47
3.4	SERVICING OF PURCHASED RECEIVABLES .....	50
3.5	DOCUMENT CONTROL AND CUSTODY.....	51
3.6	PROCEDURES FOR COLLECTION AND ENFORCEMENT .....	51
<b>4.</b>	<b>THE POOL.....</b>	<b>55</b>
4.1	FEATURES OF THE PURCHASED RECEIVABLES .....	55
4.2	DETAILS OF THE POOL .....	59
<b>5.</b>	<b>ACQUISITION OF THE POOL.....</b>	<b>73</b>
5.1	PROCESS OF ACQUISITION.....	73
5.2	APPROVED SELLER'S REPRESENTATIONS AND WARRANTIES .....	73
5.3	BUY BACK PROVISIONS AND OTHER REMEDIES.....	75
<b>6.</b>	<b>CREDIT ISSUES.....</b>	<b>76</b>
6.1	CREDIT QUALITY OF THE POOL.....	76
6.2	SERVICER RISK .....	79
6.3	MANAGER RISK .....	80
6.4	CUSTODIAN RISK.....	80
6.5	MARKET RISKS .....	81
6.6	TERM RISKS .....	81
6.7	INTEREST RATE RISK .....	82
6.8	EQUITABLE ASSIGNMENT .....	83
6.9	ENFORCEMENT OF SECURITY .....	84
6.10	FIXED VS. FLOATING CHARGE .....	84
6.11	TITLE ISSUES WITH AGRICULTURAL AND CONSTRUCTION EQUIPMENT ..	84
6.12	LIMITED LIABILITY UNDER THE NOTES.....	85
<b>7.</b>	<b>CASHFLOW ALLOCATION METHODOLOGY .....</b>	<b>86</b>
7.1	GENERAL .....	86
7.2	COLLECTIONS AND PAYMENT.....	86
7.3	DETERMINING AVAILABLE INCOME.....	87
7.4	WITHDRAWAL FROM CASH RESERVE ACCOUNT AND PRINCIPAL DRAWS	90
7.5	DISTRIBUTION OF TOTAL AVAILABLE INCOME.....	91
7.6	EXCESS AVAILABLE INCOME .....	93
7.7	PRINCIPAL PAYMENTS .....	94
7.8	CHARGE OFFS.....	96
7.9	ROUNDING OF AMOUNTS .....	97

# CNH Capital Australia Receivables Trust

7.10 PAYMENT PRIORITIES FOLLOWING AN EVENT OF DEFAULT: SECURITY TRUST DEED .....	97
<b>8. STRUCTURAL ENHANCEMENTS .....</b>	<b>98</b>
8.1 CASH RESERVE ACCOUNT .....	98
8.2 SUBORDINATION ARRANGEMENTS .....	98
8.3 THE SWAP AGREEMENTS .....	99
8.4 PERFORMANCE GUARANTEE .....	101
8.5 TITLE PERFECTION RESERVE ACCOUNT .....	101
<b>9. THE TRUST .....</b>	<b>103</b>
9.1 GENERAL .....	103
9.2 THE TRUSTEE .....	103
9.3 THE MANAGER .....	108
9.4 THE SERVICER .....	111
9.5 THE CUSTODIAN .....	114
9.6 TERMINATION OF THE TRUST .....	116
9.7 MEETING OF NOTEHOLDERS AND SELLER NOTEHOLDERS .....	118
9.8 PERFECTION OF TITLE .....	120
9.9 AUDIT AND ACCOUNTS .....	122
9.10 INCOME TAX .....	122
9.11 AMENDMENTS TO THE MASTER TRUST DEED .....	122
9.12 UNIT HOLDERS .....	123
<b>10. THE SECURITY STRUCTURE .....</b>	<b>124</b>
10.1 GENERAL .....	124
10.2 ENFORCING THE SECURITY .....	124
10.3 PRIORITIES UNDER THE SECURITY TRUST DEED .....	130
10.4 THE SECURITY TRUSTEE .....	131
<b>11. SELLING RESTRICTIONS .....</b>	<b>135</b>
11.1 GENERAL .....	135
11.2 AUSTRALIA .....	135
11.3 OVERSEAS .....	136
11.4 UNITED STATES OF AMERICA .....	136
11.5 THE UNITED KINGDOM .....	137
11.6 NEW ZEALAND .....	138
11.7 JAPAN .....	138
11.8 HONG KONG .....	139
11.9 SINGAPORE .....	139

# CNH Capital Australia Receivables Trust

<b>12. TAXATION CONSIDERATIONS .....</b>	<b>141</b>
12.1 TAXATION CONSIDERATIONS.....	141
12.2 THE TRUSTEE.....	141
12.3 THE NOTEHOLDERS .....	141
12.4 WITHHOLDING TAXES.....	142
12.5 THIN CAPITALISATION.....	143
12.6 GOODS AND SERVICES TAX.....	143
12.7 OTHER TAXES .....	144
12.8 ENTITY TAXATION PROPOSAL.....	146
<b>13. TRANSACTION DOCUMENTS .....</b>	<b>147</b>
<b>14. GLOSSARY OF TERMS .....</b>	<b>149</b>

# CNH Capital Australia Receivables Trust

## Important Notice

### Notes not CNH Capital liabilities

The Notes do not represent deposits or other liabilities of CNH Capital Australia Pty Limited (formally known as Case Credit Australia Pty Ltd (ABN 71 069 132 396)) ("**CNH Capital**") or SG Australia Limited (ABN 72 002 093 021) or Salomon Smith Barney Australia Securities Pty Limited (ABN 64 003 114 832) or any of their associates.

The holding of Notes is subject to investment risk, including possible delays in payments or repayment and loss of income and principal invested.

Each of CNH Capital, SG Australia Limited, Salomon Smith Barney Australia Securities Pty Limited, the Trustee and the Security Trustee and their associates does not in any way stand behind the capital value and/or performance of the Notes or the Assets of the Trust.

None of CNH Capital, the Trustee, the Security Trustee, the Arranger, the Lead Manager, the Co-Manager, any Dealer, the Swap Provider or the Back-up Swap Provider guarantees the payment of interest or the repayment of principal due on the Notes.

### Purpose of this Information Memorandum

This Information Memorandum (the "**Information Memorandum**") relates solely to the issue of Notes by the Trustee as trustee of the Trust. The Seller Note is not offered pursuant to this Information Memorandum.

The purpose of this Information Memorandum is only to assist the recipient to decide whether to proceed with a further investigation of the Notes. It is only a summary of the terms and conditions of the Notes and does not purport to contain all the information a person considering investing in Notes may require. The definitive terms and conditions of the Notes are contained in the

## **CNH Capital Australia Receivables Trust**

Transaction Documents. If there is any inconsistency between this Information Memorandum and the Transaction Documents, the Transaction Documents should be regarded as containing the definitive information. A copy of the Transaction Documents may be viewed at the offices of the Manager and the Arranger in accordance with the procedures outlined in Section 13 of this Information Memorandum.

This Information Memorandum should not be construed as an offer or invitation to any person to subscribe for or purchase Notes, and must not be relied upon by intending purchasers of Notes.

### **Terms and Definitions**

References in this Information Memorandum to various parties and documents are explained in Sections 1.1 and 13 respectively. Unless defined elsewhere, other terms are defined in the Glossary of Terms in Section 14. Section 14 should be referred to in conjunction with any review of this Information Memorandum.

### **Limited Responsibility**

This Information Memorandum has been prepared solely by the Manager based on information available and facts and circumstances known to it as at 26 August 2002 (the "**Preparation Date**"). The Manager has requested and authorised the distribution of this Information Memorandum and has sole responsibility for its accuracy. Whilst the Manager believes the contents of this Information Memorandum are correct, none of the Manager, the Trustee, the Security Trustee, the Arranger, the Lead Manager, the Co-Manager, any Dealer, the Swap Provider or the Back-up Swap Provider or any other person makes any representation or warranty, express or implied, as to, or assumes any responsibility or liability for, the authenticity, origin, validity, accuracy or completeness of, or errors or omissions in, any information,

## **CNH Capital Australia Receivables Trust**

statement, opinion or forecast contained in this Information Memorandum or in any accompanying, previous or subsequent material or presentation.

Except as stated below, none of the Trustee, the Security Trustee, CNH Capital (other than in its capacity as Manager), the Arranger, the Lead Manager, the Co-Manager, any Dealer, the Swap Provider or the Back-up Swap Provider has made, or otherwise purports to make, any statement or representation in this Information Memorandum, nor have any of them been involved in the preparation of any part of it or authorised or caused the issue of it, nor do any of them guarantee the success of the Trust or the repayment of principal or interest on the Notes. Each of the Trustee, the Security Trustee, CNH Capital (other than in its capacity as Manager), the Arranger, the Lead Manager, the Co-Manager, each Dealer, the Swap Provider and the Back-up Swap Provider expressly disclaims and takes no responsibility for any part of this Information Memorandum.

The only role of the Trustee in the preparation of this Information Memorandum has been to confirm to the Manager as accurate in all material respects as at the Preparation Date the corporate information relating to the Trustee and the Security Trustee. The Trustee and the Security Trustee have had no involvement in the preparation of any part of this Information Memorandum (other than particular references to the Trustee and the Security Trustee).

None of the Manager, the Trustee, the Security Trustee, the Arranger, the Lead Manager, the Co-Manager, any Dealer, or the Swap Provider, the Back-up Swap Provider or any other person accepts any responsibility to Noteholders or prospective Noteholders to update or correct this Information Memorandum after the Preparation Date with regard to information or circumstances which come to its attention after the Preparation Date.

No recipient of this Information Memorandum can assume that any person referred to in it has conducted any investigation or due diligence concerning,

## **CNH Capital Australia Receivables Trust**

or has carried out or will carry out any independent audit of, or has independently verified or will verify, the information contained in this Information Memorandum.

It should not be assumed that the information contained in this Information Memorandum is necessarily accurate or complete in the context of any offer to subscribe for or an invitation to subscribe for or buy any of the Notes at any time after the Preparation Date, even if this Information Memorandum is circulated in conjunction with the offer or invitation.

### **Date of this Information Memorandum**

This Information Memorandum has been prepared based on information available and facts and circumstances known to the Manager as at [\*] September 2002 (the **Preparation Date**). Neither the delivery of this Information Memorandum, nor any offer or issue of Notes, implies or should be relied upon as a representation or warranty that:

- (a) there has been no change since the Preparation Date in the affairs or financial condition of the Trust, the Trustee, the Security Trustee, the Manager, the Arranger, the Lead Manager, the Co-Manager, any Dealer, the Swap Provider, the Back-up Swap Provider or any other party named in this Information Memorandum; or
- (b) the information contained in this Information Memorandum is accurate, timely and complete at any time after the Preparation Date.

No one undertakes to review the financial condition or affairs of the Trustee or the Trust at any time or to keep a recipient of this Information Memorandum or Noteholder informed of changes in, or matters arising or coming to their attention which may affect, anything referred to in this Information Memorandum.

# **CNH Capital Australia Receivables Trust**

## **Authorisations**

No person is authorised to give any information or make any representation which is not expressly contained in this Information Memorandum and any information or representation which is not contained in this Information Memorandum must not be relied upon as having been authorised by or on behalf of the Manager, the Trustee or any other party to the Transaction Documents.

## **Intending Purchasers to make Independent Investment Decisions**

The information contained in this Information Memorandum is not a recommendation by the Manager, the Trustee, the Security Trustee, the Arranger, the Lead Manager, the Co-Manager, any Dealer, the Swap Provider or the Back-up Swap Provider that any person subscribe for or purchase any Notes. Each intending purchaser must make its own independent assessment and investigation of the terms of issue of the Notes as it considers appropriate and must base any decision to acquire Notes solely upon such independent assessment and investigation.

## **Distribution to Professional Investors Only**

This Information Memorandum has been prepared on a confidential basis for distribution only to professional investors whose ordinary business includes the buying or selling of securities such as the Notes. This Information Memorandum is not intended for and should not be distributed to any other person except with prior written consent of the Manager.

## **Offer or Invitation**

Each offer to purchase or invitation to buy Notes will constitute an offer or invitation that is not required to be disclosed under Part 6D.2 of the Corporations Act as the amount payable by each person to whom the offer is

## **CNH Capital Australia Receivables Trust**

made or the invitation is issued will be at least A\$500,000 (disregarding any amount payable to the extent to which it is to be paid out of money lent by the person offering the Notes or an associate (as defined in Division 2 of Part 1.2 of the Corporations Act)) or must otherwise constitute an offer or invitation that is not required to be disclosed under Part 6D.2 of the Corporations Act. Accordingly, this Information Memorandum is not required to be lodged with, or registered by, the Australian Securities and Investments Commission.

### **Distribution**

The distribution of this Information Memorandum and the offering or sale of Notes in certain jurisdictions may be restricted by law. Persons into whose possession this Information Memorandum comes are required by the Trustee and the Dealers to inform themselves about and to observe any such restriction. Further details are set out in Section 11.

### **Investors**

Interest withholding tax will be deducted from payments of interest to any person who is a Non-Resident (unless derived by that Non-Resident in carrying on business in Australia at or through a permanent establishment in Australia) or who is a resident which derives the interest income outside Australia at or through a permanent establishment outside Australia unless the Notes are offered, and interest is paid from time to time, in a manner which satisfies the exemption from interest withholding tax contained in section 128F of the Income Tax Assessment Act 1936.

The Trustee proposes to issue the Notes in order to satisfy that exemption. However even if the requirements for the application of the exemption are satisfied, the exemption will not apply and interest withholding tax will be deducted in respect of payments of interest or amounts in the nature of interest paid to any payee whom the Trustee knows or has reasonable

## **CNH Capital Australia Receivables Trust**

grounds to suspect is an associate of the Trustee within the meaning of section 128F of the Income Tax Assessment Act 1936, other than in the capacity of a dealer, manager or underwriter in relation to a placement of the Notes.

Subject to certain statutory exceptions, tax will also be deducted from payments to Noteholders who are Australian residents and who do not provide the Trustee with a tax file number or an appropriate exemption.

Noteholders and prospective Noteholder should obtain advice from their own tax advisers in relation to the tax implications of an investment in Notes. In particular, a Non-Resident who holds Notes may be subject to restrictions on transfer of Notes and other constraints, risks or liabilities. Non-Residents into whose possession this Information Memorandum comes are required to inform themselves about, and observe, all such restrictions.

### **Limited Recovery Against Trustee**

The Trustee's liability to make payments in respect of the Notes is limited to its right of indemnity from the Assets of the Trust which are from time to time available to make such payments under the Master Trust Deed, the Series Notice and the Security Trust Deed. All claims against the Trustee in relation to the Notes are limited to and can only be satisfied out of the Assets of the Trust out of which the Trustee is entitled to be indemnified except in the case of (and to the extent of) any fraud, negligence or Default on the part of the Trustee.

Each Noteholder is required to accept any distribution of moneys under the Security Trust Deed in full and final satisfaction of all moneys owing to it, and any debt represented by any shortfall that exists after any such final distribution is extinguished.

## **CNH Capital Australia Receivables Trust**

The Trustee shall not be liable to satisfy any obligations or liabilities from its personal assets except arising from (and to the extent of) any fraud, negligence or Default on the part of the Trustee.

None of the Manager, the Trustee, the Security Trustee, the Arranger, the Lead Manager, the Co-Manager, any Dealer, the Swap Provider or the Back-up Swap Provider or their respective associates guarantees the payment or repayment of any moneys owing to Noteholders or the principal of Notes or the payment of interest, nor do they make any statement (including, without limitation, any representation) with respect to income tax or other taxation consequences of any investment which is made under this Information Memorandum.

### **Disclosure of Interests**

Each of the Lead Manager and the Co-Manager discloses that it and its associates, subsidiaries, directors and employees:

- (a) may have a pecuniary interest in the Notes; and
- (b) may receive fees, brokerage or commissions, and may act as principal, in any dealings in the Notes.

### **References to Ratings**

There are several references in this Information Memorandum to the credit rating of the Notes and certain parties. A credit rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the Rating Agencies. The credit rating of Notes addresses the likelihood of the timely payment of interest. The credit rating of the Notes does not address the expected rate of principal repayment other than the ultimate payment of principal no later than the Final Maturity Date. Apart from this paragraph, the Rating Agencies were not involved in the preparation of the Information Memorandum.

# **CNH Capital Australia Receivables Trust**

## **The Dealers**

No Dealer, by reason of a Transaction Document, has a fiduciary relationship with, or is taken to be an agent or trustee of or for, the Trustee.

The Dealer Agreement does not constitute a partnership between the parties or any of them.

No Dealer has in any way audited, investigated or independently verified the information contained in this Information Memorandum. No Dealer makes any express or implied representation or warranty, or accepts any responsibility or liability as to, or for, the accuracy, completeness or distribution of this Information Memorandum or as to the business, financial condition or creditworthiness of the Trustee. No Dealer has undertaken a review of, or undertakes to review, the business, financial condition or creditworthiness of the Trustee or to provide or disseminate any information coming to its notice or attention with respect to any such entity or thing.

No Dealer shall be personally liable whether by way of indemnity or otherwise to another Dealer or any other person in respect of any loss, damage, outgoing or liability accruing as a result of any transaction, dealing or investment made by any dealer or such other person in or in relation to the Notes or as a result of the failure of the Trustee to carry out any agreement on its part or for anything except its own neglect, default or breach of obligation under the Dealer Agreement.

Each Dealer discloses that it and its respective associates, subsidiaries, officers and employees:

- (a) may have a pecuniary interest in the Notes; and
- (b) may receive fees, brokerage or commissions, and may act as principal, in any dealing in the Notes.

# CNH Capital Australia Receivables Trust

## 1. Issue Summary

This Section 1 provides a general summary of various aspects of the CNH Capital Australia Receivables Trust agricultural and construction equipment finance lease, commercial hire purchase and goods mortgage backed securitisation programme. More detailed information is contained in other parts of this Information Memorandum and should be read together with this summary section.

### 1.1 General Information

#### (a) Overview

- CNH Capital Australia Pty Limited has on 7 June 2001 established the CNH Capital Australia Receivables Trust (the “**Trust**”) to securitise a portfolio of agricultural and construction equipment finance leases, commercial hire purchase agreements and goods mortgages satisfying the Eligibility Criteria and originated by each of CNH Capital and New Holland Credit Australia Pty Limited (ABN 40 086 987 573) (“**NHC**”) in the ordinary course of its business.
- CNH Capital is acting as Manager, Servicer and Custodian in respect of the Trust.
- Perpetual Trustee Company Limited (ABN 42 000 001 007) as trustee of the Trust (the “**Trustee**”) has acquired the equitable interest in the Eligible Receivables from CNH Capital and NHC.
- The Trustee is issuing A\$421,500,000 of Class A1 Notes, A\$12,500,000 of Class A2 Notes, A\$12,000,000 of Class B Notes (the Class A1 Notes, the Class A2 Notes and the Class B Notes being collectively, the “**Notes**” for the purposes of this Information Memorandum) and A\$44,500,000 of Seller Notes

## CNH Capital Australia Receivables Trust

(the “**Seller Note**”) to fund the redemption of the Warehouse Notes.

- The Seller Notes are not offered pursuant to this Information Memorandum.
- The Notes will be issued in 3 classes, with Class A1 Notes rated “AAA” (by S&P) and “Aaa” (by Moody’s), Class A2 Notes rated “AA” (by S&P) and “Aa3” (by Moody’s) and Class B Notes rated “BBB” (by S&P) and “A2” (by Moody’s).

### (b) Parties to the Transaction

<b>Trustee</b>	Perpetual Trustee Company Limited (ABN 42 000 001 007), as trustee of the Trust.
<b>Manager</b>	CNH Capital Australia Pty Limited (ABN 71 069 132 396), in its capacity as Manager of the Trust.
<b>Security Trustee</b>	P.T. Limited (ABN 67 004 454 666) a related company of Perpetual Trustee Company Limited.
<b>Registrar</b>	Perpetual Trustee Company Limited (ABN 42 000 001 007), as trustee of the Trust.
<b>Custodian</b>	CNH Capital Australia Pty Limited (ABN 71 069 132 396), in its capacity as Custodian.
<b>Approved Seller</b>	CNH Capital Australia Pty Limited (ABN 71 069 132 396), in its capacity as the Approved Seller.
<b>Servicer</b>	CNH Capital Australia Pty Limited (ABN 71 069 132 396), in its capacity as Servicer.

## CNH Capital Australia Receivables Trust

<b>Arranger</b>	SG Australia Limited (ABN 72 002 093 021).
<b>Lead Manager</b>	SG Australia Limited (ABN 72 002 093 021).
<b>Co-Manager</b>	Salomon Smith Barney Australia Securities Pty Limited (ABN 64 003 114 832).
<b>Dealers</b>	SG Australia Limited (ABN 72 002 093 021) and Salomon Smith Barney Australia Securities Pty Limited (ABN 64 003 114 832).
<b>Swap Provider</b>	CNH Capital Australia Pty Limited (ABN 71 069 132 396) in its capacity as Swap Provider.
<b>Back-up Swap Provider</b>	SG Australia Limited (ABN 72 002 093 021).
<b>Performance Guarantor</b>	IHF-Internazionale Holdings Fiat S.A.
<b>(c) Note Issue Summary</b>	
<b>Issuer</b>	Perpetual Trustee Company Limited as trustee of the Trust.
<b>Issue</b>	CNH Capital Australia Receivables Trust agricultural and construction equipment finance lease, commercial hire purchase and goods mortgage backed floating rate pass-through notes.
<b>Total Issue Size</b>	A\$490,500,000
<b>Final Maturity Dates</b>	Class A1 Notes      12 September 2009

## CNH Capital Australia Receivables Trust

Class A2 Notes 12 September 2009

Class B Notes 12 September 2009

If that day is not a Business Day, the next Business Day after that day.

### **Nature of Notes**

Each Note constitutes a separate and individual acknowledgment by the Trustee, as trustee of the Trust, of its indebtedness to the person whose name is inscribed in the Register in respect of the Note. The Notes are secured, limited recourse, pass-through debt securities.

### **Initial Invested Amount**

A\$500,000 per Note.

The Notes will be issued at par value.

### **Denomination**

Notes will be issued in minimum parcels of A\$500,000 and thereafter in minimum increments of A\$10,000.

### **Class Structure**

The Notes will be issued in 3 classes with an aggregate Issue Amount of A\$446,000,000 as follows:

Class A1 Notes A\$421,500,000

Class A2 Notes A\$12,500,000

Class B Notes A\$12,000,000

In addition to the Notes, the Trustee will also issue a Seller Note in an Issue Amount of A\$44,500,000.

### **Credit Ratings**

The Class A1 Notes are rated "AAA" by (S&P) and "Aaa" (by Moody's), the Class A2 Notes are rated "AA" (by S&P) and

## CNH Capital Australia Receivables Trust

“Aa3” (by Moody’s) and the Class B Notes are rated “BBB” (by S&P) and “A2” (by Moody’s). The ratings of the Notes do not address the expected rate of principal repayments under the Purchased Receivables prior to the Final Maturity Date of the Notes.

### **Interest Period**

The first Interest Period begins on (and includes) the Note Issue Date and ends on (but excludes) the first Payment Date. Each other Interest Period begins on (and includes) a Payment Date and ends on (but excludes) the next Payment Date.

### **Interest Payments**

Three Month Bank Bill Rate (on the first day of each Interest Period) plus the Margin applicable to each Note, paid on each Payment Date.

### **Margin**

The Margin for each of the Class A1 Notes, the Class A2 Notes and the Class B Notes will be determined on the Pricing Date.

### **Payment Dates**

The 12<sup>th</sup> day of each Quarter or if that day is not a Business Day, the next Business Day after that day.

The first Payment Date will be 12 December 2002.

### **Principal Payments**

Principal Payments will be paid to Noteholders on each Payment Date. Section 7 describes the method to

## **CNH Capital Australia Receivables Trust**

calculate Principal Payments to be made on each relevant Payment Date.

### **Clean Up Call**

When the aggregate Invested Amount of all Notes and the Seller Note is less than 10% of the total Initial Invested Amount of all Notes and the Seller Note, the Manager may direct the Trustee to offer to sell so many of the Purchased Receivables to CNH Capital or any third party as is necessary to redeem the Notes and the Seller Notes which are outstanding. CNH Capital will have the first right of refusal to repurchase the Purchased Receivables which were initially assigned by it to the Trustee but is not obliged to repurchase those Purchased Receivables. The purchase price received by the Trustee from the sale of those Purchased Receivables will be used to redeem the Notes and the Seller Notes.

### **Pricing Date**

On or about 6 September 2002.

### **Note Issue Date**

On or about 12 September 2002.

## **1.2 Structural Features**

This Section 1.2 refers to various Transaction Documents entered into in relation to the transaction. A listing of Transaction Documents appears in Section 13.

## **CNH Capital Australia Receivables Trust**

### **(a) The Master Trust Deed**

Under the Master Trust Deed dated 7 June 2001 between Perpetual Trustee Company Limited and CNH Capital Australia Pty Limited, a structure has been established which permits the creation of separate and distinct trusts for the warehousing and/or securitisation of financial assets.

The Master Trust Deed governs issues including:

- the procedures to establish each separate and distinct trust;
- the mechanisms for the trustee of a particular trust to issue notes;
- the general rights of noteholders;
- guidelines for the trustee of a particular trust to acquire or invest in Receivables and other Authorised Investments; and
- the rights, powers, duties and protections of the trustee, the manager and the servicer of each particular trust.

Specific terms and conditions relating to a distinct trust, including the particular Receivables to be acquired or invested in by the trustee of that trust and the specific terms of the notes to be issued for that trust, will be set out in a Series Notice executed pursuant to the Master Trust Deed for that trust.

### **(b) CNH Capital Australia Receivables Trust**

The Trust was established pursuant to a Notice of Creation of Trust from the Manager to the Trustee dated 7 June 2001. The terms of the Trust are set out in a Series Notice dated 8 June 2001 between the Trustee, CNH Capital (as Manager, Custodian, Servicer and Approved Seller), NHC and the Security Trustee (as amended by a first amending deed dated 7 September 2001, a second amending

## CNH Capital Australia Receivables Trust

deed dated 7 March 2002 and a third amendment deed dated 26 August 2002) (the “**Series Notice**”).

By a Deed of Accession dated 26 August 2002 NHC, CNH Capital, the Trustee and the Security Trustee, CNH Capital agreed, amongst others, to assume the obligations and liabilities of NHC under the Series Notice and the Custodian Agreement with effect from 4 April 2002.

CNH Capital is the Residual Income Unit Holder of the Trust.

The following notes were issued by the Trustee to fund the acquisition of Eligible Receivables:

- (i) Senior Notes to SG Australia Custodian Company Pty Ltd as trustee of the ACE Series 2 CNHART Sub-Trust on 8 June 2001, 10 December 2001 and 12 June 2002;
- (ii) Senior Notes to Corporate Receivables Securitisation Pty Limited on 8 June 2001, 10 December 2001 and 12 June 2002; and
- (iii) Junior Notes to CNH Capital on 8 June 2001 and 12 June 2002,

(collectively, the “**Warehouse Notes**”).

The sale of Eligible Receivables by the Approved Seller and NHC to the Trustee occurred on 8 June 2001, 10 December 2001 and 12 June 2002.

Section 5 outlines the acquisition of these Receivables in more detail.

The Trustee is issuing the Notes and the Seller Note to fund the redemption of the Warehouse Notes.

## **CNH Capital Australia Receivables Trust**

### **(c) The Security Trust Deed**

Under a Security Trust Deed dated 7 June 2001 between the Trustee, the Manager and the Security Trustee as security trustee (as amended by an amendment deed dated 26 August 2002), the Trustee grants a first ranking fixed and floating charge over all the Assets and undertakings of the Trust in favour of the Security Trustee to secure the payment of moneys owing to the Chargees in respect of the Trust. See Section 10 for more information on the Security Trust Deed.

### **(d) Credit Enhancements**

#### **Class A1 Notes**

Class A1 Notes are supported by the following credit enhancements:

#### **(i) Excess Available Income**

On each Payment Date, any Excess Available Income of the Trust for the relevant Collection Period will be applied to cover, among other things, any Charge Offs which have occurred in that Collection Period and any Charge Offs which have occurred in any previous Collection Period which have not previously been reinstated before being available for distribution to the Seller Noteholders for the Interest payable on the Seller Notes and the holder of the Residual Income Unit. See Section 7.6(b) for more detail.

#### **(ii) Subordination of Seller Notes, Class B Notes and Class A2 Notes**

The Charge Offs referred to in paragraph (i) will first be allocated to the Seller Notes until the Seller Stated Amounts are reduced to zero.

## **CNH Capital Australia Receivables Trust**

If there are any Charge Offs remaining after the Seller Stated Amounts have been reduced to zero, the remaining Charge Offs will then be allocated to the Class B Notes until the Class B Stated Amounts are reduced to zero.

If there are any Charge Offs remaining after the Seller Stated Amounts and the Class B Stated Amounts have been reduced to zero, the remaining Charge Offs will then be allocated to the Class A2 Notes until the Class A2 Stated Amounts are reduced to zero.

If there are any remaining Charge Offs after application of the above paragraphs, the Class A1 Stated Amount will be reduced by that remainder until the Class A1 Stated Amounts are reduced to zero.

### **Class A2 Notes**

Class A2 Notes are supported by the following credit enhancements:

- Excess Available Income
- the subordination of the Class B Notes and the Seller Notes

### **Class B Notes**

Class B Notes are supported by the following credit enhancements:

- Excess Available Income
- the subordination of the Seller Notes

The aggregate of the Initial Invested Amount of the Seller Notes, the Class B Notes and the Class A2 Notes comprises 14.07% of the aggregate of the Invested Amount of all Notes and Seller Notes issued by the Trustee.

The aggregate of the Initial Invested Amount of the Seller Note and the Class B Notes comprises 11.52% of the aggregate of the Invested Amount of all Notes and Seller Notes issued by the Trustee.

## CNH Capital Australia Receivables Trust

The Initial Invested Amount of the Seller Note comprises 9.07% of the aggregate of the Invested Amount of all Notes and Seller Notes issued by the Trustee.

### (e) Liquidity Enhancements

#### Class A1 Notes

Class A1 Notes are supported by the following liquidity enhancements:

#### (i) Cashflow Allocations

Under the Cashflow Allocation Methodology described in Section 7, Interest due to the Class A1 Noteholders is payable prior to Interest due to the Class A2 Noteholders, the Class B Noteholders and the Seller Noteholders, and principal due to the Class A1 Noteholders is payable prior to principal due to the Class A2 Noteholders, the Class B Noteholders and the Seller Noteholders.

#### (ii) Cash Reserve

To the extent that Available Income received in a Collection Period is not sufficient to meet Required Payments (an “**Income Shortfall**”), the Cash Reserve may be used to meet the Income Shortfall.

#### (iii) Principal Draws

If the Manager determines on any Determination Date that the aggregate of the Available Income of the Trust and any Cash Reserve is insufficient to meet the payments set out in Section 7.5(b)(i) to (b)(xi) (inclusive) on the following Payment Date (a “**Payment Shortfall**”), then Total Available Principal can be used to fund the Payment Shortfall (a “**Principal Draw**”).

Such Principal Draws will be reimbursed from the Total Available Income (to the extent available) in subsequent periods.

# CNH Capital Australia Receivables Trust

## **Class A2 Notes**

Class A2 Notes are supported by the following liquidity enhancements:

- the Cashflow Allocation Methodology (described in Section 7) under which Interest due to the Class A2 Noteholders is payable prior to Interest due to the Class B Noteholders and the Seller Noteholders, and principal due to the Class A2 Noteholders is payable prior to principal due to the Class B Noteholders and the Seller Noteholders
- the Cash Reserve

## **Class B Notes**

Class B Notes are supported by the following liquidity enhancements:

- the Cashflow Allocation Methodology (described in Section 7), under which Interest due to the Class B Noteholders is payable prior to Interest due to the Seller Noteholders, and principal due to the Class B Noteholders is payable prior to principal due to the Seller Noteholders
- the Cash Reserve

## **(f) Interest Rate Management**

For the purposes of hedging the interest rate risk between the fixed rate payments received from Purchased Receivables and the floating rate liabilities of the Trust (including Interest on the Notes) the Trustee has entered into Swaps with the Swap Provider. The Swap Provider's obligations under the Swaps are supported by the Back-up Swap Provider. The Back-up Swap Provider will assume the Swap Provider's obligations under the Swaps on the occurrence of certain events of default set out in the First Master Agreement, including failure by the Swap Provider to make payments due under the Swaps.

See Section 8.3 for more details on the Swaps.

## **(g) Performance Guarantee**

The Servicer's obligations under the Master Trust Deed and the Series Notice are being supported by a guarantee from the

## **CNH Capital Australia Receivables Trust**

Performance Guarantor. The Performance Guarantor guarantees the due and punctual performance and observance by the Servicer of its duties and obligations if, either:

- (i) the Servicer is not a direct or indirect wholly owned subsidiary of CNH Global N.V. (“**CNH Global**”); or
- (ii) the long term credit rating assigned to the senior unsecured debt obligation of CNH Global is less than BBB- by S&P and Baa3 by Moody’s, or is withdrawn by both Rating Agencies.

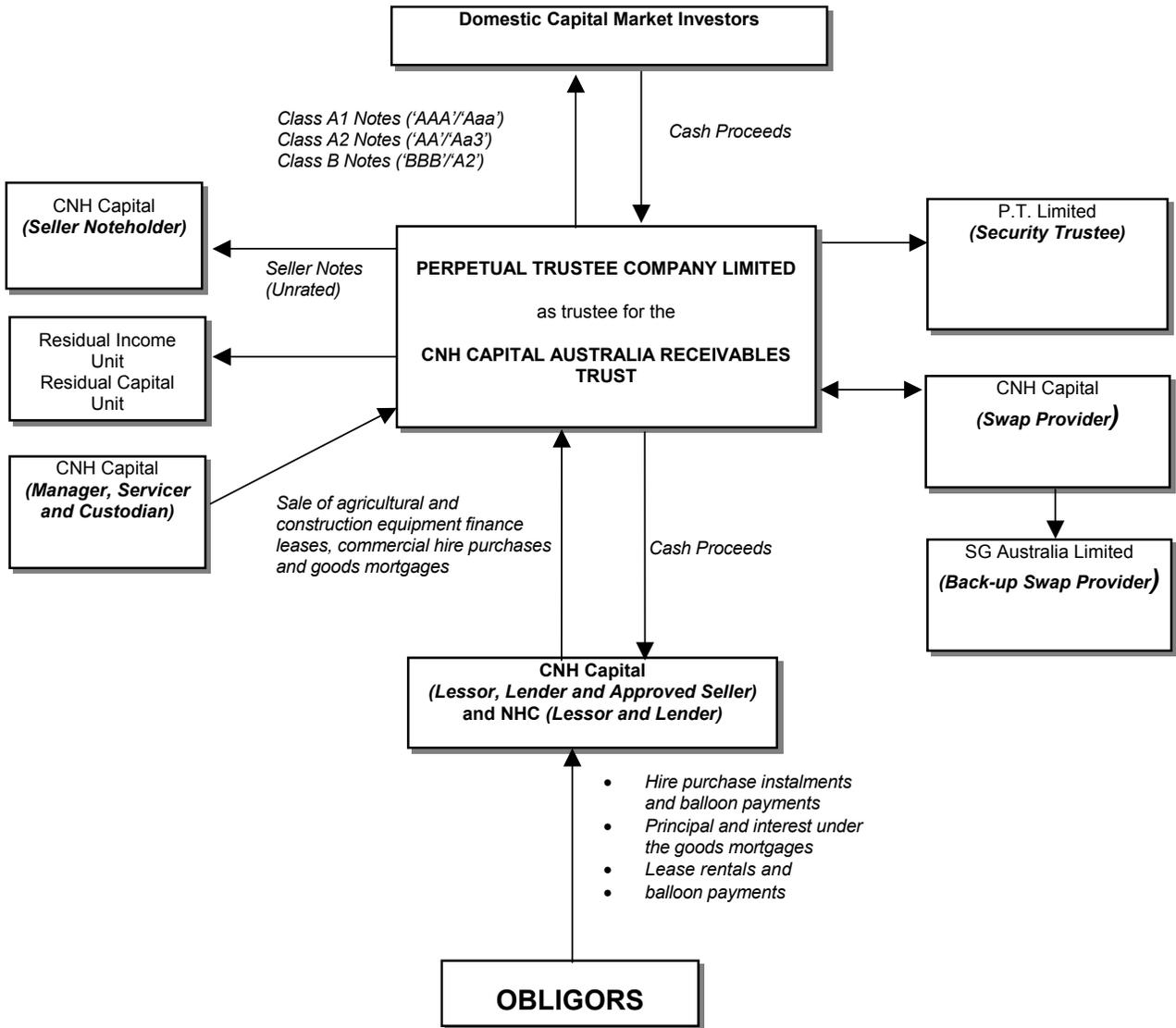
### **(h) Title Perfection Reserve**

The Title Perfection Reserve may be used to pay all costs and expenses in relation to the perfection of the Trustee’s legal title to the Purchased Receivables and related Receivable Rights following the occurrence of a Title Perfection Event. A list of the Title Perfection Events is set out in Section 9.8.

### **1.3 Structure Diagram**

A structure diagram is provided below to give a schematic overview of the transaction. It should be viewed subject to the detailed information contained elsewhere in this Information Memorandum.

# CNH Capital Australia Receivables Trust



# CNH Capital Australia Receivables Trust

## 1.4 The Pool

As at 31 August 2002, the outstanding principal balance of the Purchased Receivables in the Pool was A\$[\*], comprising \$[\*] of finance lease contracts, \$[\*] of commercial hire purchase contracts and \$[\*] of goods mortgages. The average contract value is \$[\*].

Further particulars in relation to the Purchased Receivables are contained in Section 4.

## 1.5 Further Information

**Issue Procedure** The Notes will be issued to the Dealers, who may either retain or sell some or all of them in the secondary market.

**Secondary Market** The Dealers have undertaken to use their reasonable endeavours, subject to market conditions, to promote a secondary market in the Notes to assist liquidity, including by assisting Noteholders so requesting to locate potential purchasers for the Notes from time to time.

**Transfer** Notes may only be purchased or sold by execution or registration of a Transfer Form in the prescribed form, as described in Section 2.8. Notes may be lodged into the Austraclear system, in which case all dealings (including transfers) and payments in relation to Notes so lodged will be governed by the Austraclear regulations (see Section 2.11).

## CNH Capital Australia Receivables Trust

Notes can only be transferred if:

- (a) the amount payable by the transferee in relation to the relevant Notes is not less than A\$500,000 (disregarding any amount payable to the extent to which it is to be paid out of money lent by the Noteholder or an associate (as defined in Division 2 of Part 1.2 of the Corporations Act)); and
- (b) the offer or invitation to the transferee by the Noteholder is an offer or invitation for which no disclosure is required to be made under Part 6D.2 of the Corporations Act.

None of the Manager, the Trustee, the Security Trustee, the Approved Seller, the Arranger, the Lead Manager, the Co-Manager or any Dealer is liable to any Noteholder in relation to a breach by that Noteholder of these restrictions.

### **Stamp Duty**

The Manager has been advised that the issue or transfer of Notes will not currently attract stamp duty or GST in any jurisdiction of Australia, except for the Northern Territory where execution of a Transfer Form may incur nominal stamp duty.

### **Withholding Tax and Tax File Number**

Payments by the Trustee in respect of the Notes are subject in all cases to applicable provisions of fiscal and other laws and regulations. All payments under the Notes must be made free and clear of, and without withholding or deduction for, or by

## CNH Capital Australia Receivables Trust

reference to, any present or future taxes of any government agency of any jurisdiction or any political subdivision or taxing authority in it unless required by any law or regulation.

If any withholding or deduction as described in the paragraph above is required by any law or regulation, the Trustee will account to the relevant government agency for the amount required to be withheld or deducted and the Trustee will not be obliged to pay any additional amounts to Noteholders in respect of such withholding or deduction.

Noteholders and prospective Noteholders should obtain advice from their own tax advisers in relation to the tax implications of an investment in the Notes.

### **Selling Restrictions**

The offer, sale and delivery of the Notes and the distribution of this Information Memorandum and other material in relation to any Notes is subject to restrictions as may apply in any country in connection with the offering and sale of the Notes.

See Section 11 for more information.

### **Transaction Documents**

The Noteholders are entitled to the benefit of, are bound by and are deemed to have notice of, all the provisions contained in the Transaction Documents. Copies of the Transaction Documents may be viewed at the offices of the Manager and the Arranger (see Section 13 for more information).

# **CNH Capital Australia Receivables Trust**

# **CNH Capital Australia Receivables Trust**

## **2. Description Of The Notes**

### **2.1 General**

The Notes are secured, limited recourse, pass-through debt securities issued by the Trustee as trustee of the Trust for the purposes of funding (together with the issue of the Seller Note) the redemption of the Warehouse Notes. The obligations of the Trustee to pay Interest and make Principal Payments in relation to the Notes and the Seller Note, the nature of the security granted for the benefit of Noteholders and the Seller Noteholder and other terms relating to the Notes and the Seller Note are described in this Section 2 and Section 10.

### **2.2 Interest Payments**

Each Note and the Seller Note bears Interest calculated and payable quarterly in arrears as described in this Section 2.2 from the Note Issue Date to the date upon which the Notes or the Seller Note (as the case may be) is finally redeemed.

#### **(a) Calculation of Interest**

Interest payable on each Note and the Seller Note in respect of each Interest Period is calculated:

- (i) on a daily basis at the applicable Interest Rate for that Interest Period;
- (ii) on the Invested Amount of that Note or on the Seller Stated Amount in the case of the Seller Note, in either case as at the first day of that Interest Period; and
- (iii) on the basis of the actual number of days in that Interest Period and a year of 365 days,

and shall accrue due from day to day.

## **CNH Capital Australia Receivables Trust**

No Interest will accrue on any Note or the Seller Note for the period after its Stated Amount is reduced to zero. No overdue or default interest will be payable on any Interest which is not paid in full on the due date.

### **(b) Interest Periods**

The first Interest Period begins on (and includes) the Note Issue Date and ends on (but excludes) the first Payment Date.

Each other Interest Period begins on (and includes) a Payment Date and ends on (but excludes) the next Payment Date.

### **(c) The Interest Rate**

The Interest Rate applicable to each Note and the Seller Note for an Interest Period equals the sum of the Bank Bill Rate on the first day of that Interest Period plus the Margin for that Note or the Seller Note (as applicable).

The Margin for each Note will be agreed between the Manager, the Lead Manager and the Dealers and will be set on the Pricing Date.

### **(d) Payment of Interest**

The Trustee will pay Interest to each Noteholder and the Seller Noteholder as calculated above, in arrears on each Payment Date. Noteholders within a Class will be paid *pari passu* and rateably as between themselves.

The Interest Payments on the Notes will be made from the Total Available Income in relation to the Collection Period ending immediately before the relevant Payment Date, as discussed in Section 7.5(b).

The Interest Payments on the Seller Notes will be made from the Excess Available Income in relation to the Collection Period ending immediately before the relevant Payment Date, as discussed in Section 7.6(b).

## CNH Capital Australia Receivables Trust

Section 2.5 details the method of payment.

### 2.3 Repayment Of Principal

#### (a) Repayment each Payment Date

On each Payment Date the Trustee will repay an amount of principal (the “**Principal Payment**”) to Noteholders and the Seller Noteholder from the Total Available Principal in relation to the Collection Period ending immediately before the relevant Payment Date, as discussed in Section 7.7(c). Principal Payments will be paid to Noteholders in the same Class *pari passu* and rateably as between themselves.

On each Payment Date, the Invested Amount of each Note and the Seller Note will be reduced by, and the obligations of the Trustee with respect to that Note or the Seller Note (as applicable) will be discharged to the extent of the amount of the Principal Payment made on that Payment Date for that Note or the Seller Note (as applicable).

#### (b) Final Maturity Date

The Trustee must pay the Stated Amount in relation to each Note and the Seller Note on the Final Maturity Date for the Note or the Seller Note (as applicable).

No Noteholder or Seller Noteholder will be entitled to receive aggregate principal on any Note or the Seller Note (as applicable) in excess of the Invested Amount for that Note or the Seller Note (as applicable).

#### (c) Final Redemption

Each Note and the Seller Note will be finally redeemed, and the obligations of the Trustee with respect to the payment of the Invested Amount of that Note or the Seller Note (as applicable) will be finally discharged, on the first to occur of:

## CNH Capital Australia Receivables Trust

- (i) the date upon which the Invested Amount of that Note or the Seller Note (as applicable) is reduced to zero;
- (ii) the date on which the relevant Noteholder or the Seller Noteholder renounces all its rights to any amount payable under or in respect of that Note or the Seller Note (as applicable); and
- (iii) the Payment Date immediately following the date on which the Trustee completes a sale and realisation of all Assets of the Trust and distribution of the proceeds of that sale and realisation of all Assets of the Trust in accordance with the Master Trust Deed and the Series Notice.

### 2.4 Clean Up Call Feature

When the aggregate Invested Amount of all Notes and the Seller Note is less than 10% of the total Initial Invested Amount of all Notes and the Seller Note, the Manager may direct the Trustee to offer to sell so many of the Purchased Receivables to CNH Capital or any third party as is necessary to redeem the Notes and the Seller Notes which are outstanding. CNH Capital will have the first right of refusal to repurchase the Purchased Receivables which were initially assigned by it to the Trustee but is not obliged to repurchase those Purchased Receivables. CNH Capital or third party which has been offered those Purchased Receivables may accept the offer by paying the Trustee, the Unpaid Balance of those Purchased Receivables (in case of performing Purchased Receivables) or the Fair Market Value of those Purchased Receivables (in case of non-performing Purchased Receivables). The Servicer (in consultation with the Trustee) will determine whether Purchased Receivable is performing or non-performing. The purchase price received by the Trustee from the sale of the Purchased Receivables will be used to redeem the Notes and the Seller Notes.

# CNH Capital Australia Receivables Trust

## 2.5 Payments

### (a) Payments to Noteholders

Any payment made by or on behalf of the Trustee in respect of any Note or the Seller Note will be made to the person whose name is on the relevant Determination Date entered in the Register as the registered owner of the relevant Note or the Seller Note.

Any moneys payable to a Noteholder or the Seller Noteholder will be paid in Australian dollars.

### (b) Payments on a Business Day

If any payment is due on a day which is not a Business Day, the due date will be the next Business Day unless that day falls in the next calendar month, in which case the due date will be the first preceding day that is a Business Day.

## 2.6 The Register

### (a) General

The Trustee will keep a register (the “**Register**”) in relation to the Trust containing information including the name and address of each Noteholder, the Seller Noteholder and the Invested Amount and Stated Amount of each Note and the Seller Note from time to time.

The Register will be kept at Level 7, 39 Hunter Street, Sydney or at such place as approved by the Manager. It will be open for inspection by a Noteholder or the Seller Noteholder at any time the Register is open for public access and at no charge.

### (b) Details Conclusive

The Trustee shall recognise the Noteholder and the Seller Noteholder whose name appears in the Register as the absolute owner of the

## **CNH Capital Australia Receivables Trust**

Notes registered in its name on the Register without any regard to any other record or instrument. The Trustee is not obliged to enter on the Register notice of any trust or other interest whatsoever in relation to any Note or the Seller Note.

### **(c) Closing of Register**

The Trustee may:

- (i) without prior notice to Noteholders and the Seller Noteholder, close the Register:
  - from 4.30pm (Sydney time) on each Determination Date to the close of business on the Payment Date immediately following that Determination Date; or
  - when required for the Auditor to conduct any audit of the Trust; or
- (ii) with prior notice to Noteholders and the Seller Noteholder, close the Register for other periods not exceeding 30 days in aggregate in any calendar year (or, subject to the Corporations Act, such other period agreed between the Trustee and Manager, with the approval of an Extraordinary Resolution of Noteholders and the Seller Noteholder).

## **2.7 Issue of Registration Certificate**

The Trustee will, within 5 Business Days of the Note Issue Date or the registration of a transferee as a Noteholder or a Seller Noteholder, send a Registration Certificate to that person in respect of those Notes or the Seller Note (as applicable).

A Registration Certificate is not a certificate of title and the Register is the only conclusive evidence of the ownership of Notes or the Seller Note (as applicable).

# CNH Capital Australia Receivables Trust

## 2.8 Transfers

### (a) Minimum Transfer

A Noteholder or the Seller Noteholder is not entitled to transfer any Notes or the Seller Note unless the offer or invitation to the transferee is an offer or invitation for which no disclosure is required to be made under Part 6D.2 of the Corporations Act. Without limiting the previous sentence, a Noteholder or the Seller Noteholder must not transfer any Notes or the Seller Note unless the amount payable by the transferee for those Notes or the Seller Note is not less than A\$500,000 (disregarding any amount payable to the extent to which it is to be paid out of money lent by the Noteholder or the Seller Noteholder (as applicable) or an associate (as defined in Division 2 of Part 1.2 of the Corporations Act)).

### (b) Transfer Procedure

Every transfer of Notes and the Seller Note must be effected by a Transfer Form in prescribed form, duly completed and executed by the transferor and transferee and duly stamped (if applicable) prior to lodgement with the Trustee.

Each Transfer Form must be delivered to the Trustee together with the relevant Registration Certificate.

Upon registration, a Transfer Form will take effect at the beginning of the Business Day it is received by the Trustee. When a Transfer Form is received by the Trustee after 4pm on a Business Day, registration of the Transfer Form shall only take effect as at the beginning of the next Business Day.

Where Notes or the Seller Note is lodged in the Austraclear system, see Section 2.11.

## **CNH Capital Australia Receivables Trust**

### **(c) Trustee Entitled to Refuse Registration**

The Trustee may refuse to register any Transfer Form which is not duly completed, executed and stamped (if necessary), or would result in a contravention or failure to observe the Master Trust Deed, or a law of an Australian jurisdiction.

The Trustee is not bound to give any reason for refusing to register any Transfer Form and its decision is final, conclusive and binding. If the Trustee refuses to register a Transfer Form, it will as soon as practicable send to the transferor and the transferee notice of the refusal.

### **(d) Payments to Transferee**

On the entry of a transfer of Notes or the Seller Note in the Register, the transferee will become entitled to receive any payments then due or which may become due to the holder of the relevant Notes or the Seller Note (as applicable).

## **2.9 Noteholder and Seller Noteholder Rights**

Subject to the Master Trust Deed and the Series Notice, the Trustee must pay or cause to be paid to each Noteholder and the Seller Noteholder their Interest Payments and Principal Payments on each Payment Date.

No Noteholder or the Seller Noteholder in its capacity as such, is entitled to:

- (i) require the Trustee to owe to it, or act in a manner consistent with any fiduciary obligation in any capacity;
- (ii) an interest in any particular part of the Trust or Asset comprised in the Trust;
- (iii) interfere with or question the exercise or non-exercise of the rights or powers of the Servicer, the Manager or the Trustee in their dealings with the Trust or any Asset;

## CNH Capital Australia Receivables Trust

- (iv) exercise any rights, powers or privileges in respect of any Asset in the Trust;
- (v) attend meetings or take part in or consent to any action concerning any property or corporation which the Trustee in its capacity as trustee of the Trust holds an interest;
- (vi) seek to wind up or terminate the Trust (except in accordance with the Master Trust Deed);
- (vii) seek to remove the Servicer, Manager, Trustee, Custodian or any Support Facility Provider;
- (viii) interfere in any way with the Trust;
- (ix) lodge or enter a caveat or similar instrument in relation to the Register or claim any estate or interest in any land over which a Receivable Security is held or to which any other Asset relates in respect of the Trust;
- (x) except where the Noteholder or the Seller Noteholder is CNH Capital (and is communicating in some other capacity under the Transaction documents) or the Trustee has otherwise consented (and subject to any provision of a Transaction Document which allows any such communication), negotiate or communicate in any way with any Obligor or other security provider in respect of any Receivable or Receivable Security, or with any Support Facility Provider or any other person who is party to any Transaction Document (other than the Lead Manager);
- (xi) take any proceedings of any nature whatsoever in any court or otherwise or to obtain any remedy of any nature (including against the Trustee, the Manager or the Servicer or any former Trustee, Manager or Servicer or in respect of the Trust or any Asset of the Trust) provided that it will be entitled to compel the Trustee, the Manager and the Servicer to comply with their respective duties and obligations under the Transaction Documents, to compel the Security Trustee to comply with its duties and obligations under the Security Trust Deed and to take such proceedings against the Trustee to the extent to which the loss, cost, liability or expense incurred or suffered by it was caused by the fraud, negligence or Default of the Trustee; and
- (xii) any recourse whatsoever to the Trustee in its personal capacity, except to the extent of any fraud, negligence or Default on the part of the Trustee.

# CNH Capital Australia Receivables Trust

## 2.10 Notices To Noteholders and Seller Noteholder

A notice, request or other communication by the Trustee, the Manager or the Servicer to Noteholders or the Seller Noteholder will be deemed to be duly given or made by:

- (i) an advertisement placed on a Business Day in “The Australian Financial Review” (or other nationally distributed newspaper); or
- (ii) mail, postage prepaid, to the address of the Noteholders or the Seller Noteholder as shown on the Register. Any notice so mailed will be conclusively presumed to have been duly given whether or not the Noteholder or the Seller Noteholder actually receives the notice.

## 2.11 Austraclear

If Notes or the Seller Note are lodged into the Austraclear system, the Trustee will enter Austraclear in the Register as the holder of the Notes or the Seller Note. While those Notes or the Seller Note remain in the Austraclear system:

- (i) all payments and notices required of the Trustee and the Manager in relation to those Notes or the Seller Note will be directed to Austraclear; and
- (ii) all dealings (including transfers) and payments in relation to those Notes or the Seller Note will be governed by the Austraclear regulations.
- (iii) The Trustee is not liable for any act or omission of Austraclear.

## 2.12 Credit Ratings

The Class A1 Notes are rated “AAA” (by S&P) and “Aaa” (by Moody’s), the Class A2 Notes are rated “AA” (by S&P) and “Aa3” (by Moody’s) and the Class B Notes are rated “BBB” (by S&P) and “A2” (by Moody’s). Ratings other than these have not been requested. There can be no assurance as to whether another rating agency will rate the Notes and if so, what ratings would be so assigned to the Notes. Any ratings so assigned could be lower than those indicated

## CNH Capital Australia Receivables Trust

above. The ratings of the Notes should be evaluated independently from similar ratings on other types of securities. A credit rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the assigning rating agency. The ratings of the Notes do not address the expected rate of principal repayments other than the ultimate payment of principal no later than the Final Maturity Date. The Rating Agencies were not involved in the preparation of this Information Memorandum other than the paragraph entitled "Reference to Ratings" in the Important Notice section.

### 2.13 Key Dates & Periods

<b>Pricing Date:</b>	On or about 6 September 2002
<b>Note Issue Date:</b>	On or about 12 September 2002
<b>Final Maturity Date:</b>	Class A1 Notes 12 September 2009 Class A2 Notes 12 September 2009 Class B Notes 12 September 2009
	If that day is not a Business Day, the next Business Day after that day.
<b>Payment Dates:</b>	The 12 <sup>th</sup> day of each Quarter or if that day is not a Business Day, the next Business Day after that day.  The first Payment Date will be 12 December 2002.
<b>Collection Period:</b>	In relation to a Payment Date, the period from (and including) the first day of the Quarter immediately preceding the Quarter in which the Payment Date occurs to (but excluding) the first day of the calendar

## CNH Capital Australia Receivables Trust

month in which the Payment Date occurs. The first Collection Period is the period from (but excluding) 12 September 2002 to (but excluding) 1 December 2002. The last Collection Period is the period from (but excluding) the last day of the previous Collection Period to the Termination Date of the Trust.

**Determination  
Date:**

The date which is 3 Business Days prior to a Payment Date.

**Interest Period:**

The first Interest Period begins on (and includes) the Note Issue Date and ends on (but excludes) the first Payment Date.

Each other Interest Period begins on (and includes) a Payment Date and ends on (but excludes) the next Payment Date.

## CNH Capital Australia Receivables Trust

### 3. CNH Capital Australia Pty Limited

#### 3.1 Background & History

CNH Global is a corporation organised under the laws of the Kingdom of the Netherlands and was formed on 12 November 1999 in connection with New Holland N.V.'s acquisition of Case Corporation Pty Ltd ("**Case Corporation**"). In the acquisition, Case Corporation was merged into a subsidiary of New Holland N.V. with Case Corporation being the surviving entity. Upon completion of the merger, New Holland N.V.'s name was changed to CNH Global.

CNH Global is one of the world's leaders in the engineering, manufacturing, marketing and distribution of agricultural and construction equipment. CNH Global organises its operations into three business segments: agricultural equipment, construction equipment and financial services. CNH Global believes that it is the largest manufacturer of agricultural equipment in the world based on units sold, one of the largest manufacturers of construction equipment based on units sold and has one of the industry's largest equipment finance operations.

CNH Global is the only global and full-line company in both the agricultural and construction equipment industries, with strong and usually leading positions in every significant geographic and product category in both businesses. CNH Global markets its products globally through its highly recognised Case, Case IH, New Holland, Steyr, Fiat-Hitachi, Fiatallis, O&K and Kobelco brand names.

CNH Capital is the finance arm of CNH Global's operations in Australia. CNH Capital is a wholly owned subsidiary of Case Credit Australia Investments Pty Limited ("**CCAI**") which in turn is a wholly owned subsidiary of CNH Australia Pty Limited ("**CNHA**"). CNHA is a wholly owned subsidiary of CNH Global.

In Australia, the merger resulted in the operations of New Holland Credit Australia Pty Limited ("**NHC**") and CNH Capital being integrated. These businesses were effectively merged in May 2000 and all business is now processed in an identical manner. In April 2002, CNH Capital acquired the assets and assumed the liabilities of NHC. The sale and purchase of NHC's assets and business was part of the solvent reconstruction of the entities within the Case New Holland group which will result in the eventual voluntary deregistration of NHC.

CNH Capital principally finances both agricultural and construction equipment manufactured by CNH Global and sold throughout the dealer network, under the

## **CNH Capital Australia Receivables Trust**

Case IH, New Holland or Case brands. CNH Capital's operations in Australia run under two brand names being Case Credit and New Holland Credit.

CNH Capital was incorporated in May 1995 as Case Credit Australia Pty Limited when it took over control of an existing retail loan portfolio from Case Corporation. The activities of a retail financing operation within the Case business date back 23 years. New Holland Credit Australia Pty Ltd was incorporated in April 1999.

### **3.2 Origination of Agricultural and Construction Equipment Receivables**

Applications for retail finance are introduced by Case and New Holland dealers to CNH Capital for the financing of new or used agricultural and construction equipment. CNH Capital has a sales team (State Finance Managers – SFMs) that interfaces with, and supports the dealer network. The SFMs provide the dealers with rate updates, details of marketing programs and technical support. SFMs work closely with the underwriting department and the dealers to ensure credit standards are maintained. However it should be noted that the SFM's have no credit approval authority. No other origination methods other than the dealer network are used. Dealers are not responsible for underwriting, however they assist in the initial data collection process and forward this information to CNH Capital for further analysis. Dealers complete the initial aspects of the "Finance Application".

A completed standard credit application form is required for all applications. The application form contains customer details, ABN, details of the equipment to be financed and the amount of finance. The credit application is then sent via facsimile to CNH Capital.

# CNH Capital Australia Receivables Trust

## 3.3 Underwriting Guidelines

Underwriting is centralised at CNH Capital's head office in St Marys. The underwriting department falls under the responsibility of the credit manager. The department comprises a credit manager, four credit analysts and a credit officer. Each of the credit analysts holds a lending authority based on their relative experience level. All deals are approved by underwriting, except refinancing which are co-approved with the collections department.

Credit decisions are based on the accumulation, verification and interpretation of application information analysing the following underwriting criteria:

- financial statements for the past 2 years and borrower tax returns
- asset backing of customer
- how long the customer's business has been established
- amount of cash deposit / trade-in
- price verification on the unit being purchased
- age of unit
- payment history to CNH Capital and others
- CRAA (Credit Reference Association of Australia) report
- structure of the deal (repayment schedule) / rate of finance quote
- detailed cashflow forecast / business plan
- credit references
- availability of guarantors and/or additional security

The credit manager is ultimately responsible for what checks are considered necessary, but these are subject to review by the credit committee.

## CNH Capital Australia Receivables Trust

Delegated lending authorities are assigned on an individual basis based on position and experience. These levels and the underwriters performance is reviewed via the quarterly “decision sampling” process, which is a next level up review of the underwriting decisions made.

The matrix shown below highlights the approval limits not only for the underwriting department, but also the credit manager, operations manager, managing director, credit committee and offshore approval.

<b>Amount (AUD)</b>	<b>Authority</b>
\$250,000 and below	Credit analyst
\$500,000 and below	Credit manager
\$1,000,000 and below	Managing director
\$3,000,000 and below	Credit committee
\$3,000,000 and above	United States credit committee

The QATS (Quote and Application Tracking System) system has in built authority limits linked to each underwriter. The deals approved by an underwriter are randomly reviewed via the decision sampling process by the credit manager to ensure compliance with credit policies and appropriate criteria.

Loan / lease parameters are based on the type of equipment, whether the equipment is new or used, and the amount of deposit / trade-in there is in the deal.

All payments are calculated by the system. They are based on a repayment schedule, which can either be monthly, annual or

## CNH Capital Australia Receivables Trust

structured. Structured repayments are designed to meet the cash flows of CNH Capital's customer base, for example, if a farmer grows two crops per year, then his repayments would be structured on a semi-annual basis in order to match the cash flow the farmer receives from the sale of his crop. Alternatively a farmer may sell his crop over a three-month period, then have no income until the next year, so his repayments would be structured to make payments in each of the three months he has income and then no repayments are scheduled until the next year.

Advance rate guidelines for new equipment are based on 70% of the recommended retail price of the equipment to be financed. For used equipment, reference is made to the AMDS (Australian Machinery Dealers) guide (similar to Glass's and the Red Book). Prices from the guide are then discounted by up to 15% to assess the equipment value. The advance rate is highly dependent on the credit quality of the borrower.

CNH Capital actively encourages its borrowers to retain and build equity in their equipment. This encouragement is emphasised by the prudent structuring of each transaction.

Underwriting declines are tracked on the basis that the Credit Manager reviews the approval rate on a monthly basis. Exceptions are not relevant as each deal is assessed on a case by case basis. Transactions are generally declined based on a poor customer CRAA, inconsistent payment history, lack of deposit, poor structure (excessive balloon payment) and age of equipment.

Rewrites are a part of CNH Capital's business and are managed collectively by underwriting and collections. Given the predominant underlying business of CNH Capital's target customers, rewrites are managed proactively, for example, excessive rain during the wheat harvest period in NSW at the end of 2000 resulted in CNH Capital offering to re-write affected borrower loans. This was done on a case by case basis and approval was only granted where the underwriting standards were met. The major reasons for rewrites would include

## **CNH Capital Australia Receivables Trust**

general economic and environmental conditions affecting CNH Capital's customer base but would generally be confined to the agricultural business and the associated climate affected issues of drought & flood.

With respect to extensions, these are reviewed on a case by case basis and are approved within the collections department or by the operations manager depending on the outstanding amount.

Extensions are tracked separately via a spreadsheet maintained by the senior collections officer.

Self-audits in the form of decision sampling are conducted on a half-yearly basis. As the name suggests the focus of this process is to review the underwriting decisions made by the individual members of the department.

Where an underwriting decision is reviewed and not considered to be "acceptable", the decision will be analysed with the underwriter. Such an outcome would also lead to closer scrutiny of that underwriter going forward.

### **3.4 Servicing of Purchased Receivables**

CNH Capital as Servicer of the Purchased Receivables retains responsibility for the day to day management of those Receivables on behalf of the Trustee.

Under the Master Trust Deed, CNH Capital is required to manage the Purchased Receivables with the degree of diligence and care expected of an appropriately qualified Servicer of the relevant financial products, and in accordance with its established policies and procedures. As Servicer, CNH Capital will retain a database of the Purchased Receivables on its existing computer systems, and will continue to service those Receivables, including the management of the collections process, and the banking of collections to the account of the Trustee. The Purchased Receivables will be separately tagged and identified within CNH Capital's systems. The Master Trust Deed also requires CNH Capital to provide to the Manager and the Trustee quarterly reports relating to the performance of the Purchased Receivables.

# **CNH Capital Australia Receivables Trust**

## **3.5 Document Control and Custody**

The Custodian is responsible for the custody of the Relevant Documents in respect of the Purchased Receivables as custodian for the Trustee. These Relevant Documents are held in accordance with the Custodian Agreement. After settlement, all original documents are imaged using Alchemy software and housed in a fire proof safe within the St. Marys office. Once there is a critical mass of documentation the documents are sent to an off-site warehouse, where they are collated and stored in a fire proof secure location.

## **3.6 Procedures for Collection and Enforcement**

The collections department, under the responsibility of the operations manager handles collections on all accounts and all product types throughout Australia and manages the loss recoveries on defaulted contracts including arranging sale of equipment and initiating legal action against defaulted obligors to recover any balance outstanding after sale of the equipment.

An account is reported as past due if it is more than \$100 in arrears. Each customer receives an arrears letter at day 7 and a reminder letter at day 21. After this, a collector will initiate direct contact with the customer and the dealer. The collection officer will make telephone contact with any customer who does not make payment within the terms of their contract. All customer contact is documented via comments on the system.

At all times during the aging cycle, the senior collections officer performs random checks of accounts to ensure appropriate and diligent follow-up by the collections group. All collection officers are judged based on monthly targets for 30 day, 90 day and 180 day arrears by portfolio by State/Territory.

In certain circumstances a contract will be rewritten. This action may be instigated by the customer prior to the account becoming delinquent. The motivation in rewriting the contract is always to

## **CNH Capital Australia Receivables Trust**

protect the asset and ensure repayment of the debt. All initial requests for refinancing are handled by the collections area. The collector will first investigate the possibility of encouraging the customer to make payments as per the original contract term or to agree to an extension/deferral of payment.

If there is no alternative, the contract may be rewritten. This involves the customer completing a new credit application including justification of their circumstances. Once the documentation is received it will be forwarded to the credit group for review. Approval requires both a credit and a collections signoff and the authorities for approval depend on the total customer exposure.

The senior collections officer approves any requests for repossession activity. This activity is approved as a last resort after it has been determined a customer is unable or unwilling to honour contract obligations. In the event the repossession activity is approved, the account is assigned to a mercantile agent and the customer is listed as a default on CRAA. The listing on CRAA may occur earlier if approved by the senior collections officer.

Default notices are issued during the course of collection activity by the relevant collection officer. All accounts that are approved for repossession activity are tracked by a collections officer who is responsible for ensuring prompt follow-up by the mercantile agent. When the asset has been recovered the account is placed in the repossession company and identified with a repossession status on the system

The objective of CNH Capital's disposal procedure is to obtain the best price which could be reasonably obtained given current market conditions, the condition of the equipment and the market outlook.

Generally repossessed and surrendered equipment is transported to the nearest dealer who CNH Capital feels is in the best position to maximise resale value for the equipment. Repossessed equipment

## **CNH Capital Australia Receivables Trust**

is marketed along with other used equipment within a dealer's inventory. CNH Capital also directly markets the equipment with the wider dealer network via their website and monthly used equipment bulletins. In certain circumstances auctions may be held to clear backlogs of equipment when market conditions are appropriate.

The remarketing officer arranges for an appraisal and valuation of the equipment from the holding dealer. This will be based on recent sales of comparable equipment, current market conditions for that product type and the various trade price guides. The operations manager or managing director will then determine the price for which the equipment is offered. The dealer holding the equipment on behalf of CNH Capital will liaise with CNH Capital to determine progress and strategy.

After the equipment has been sold, a notice is sent to the customer advising of the sale proceeds and the net amount owing under the contract after deduction of all the sale and pre-disposal expenses. Once a piece of repossessed equipment has been sold and a loss is realised, the account will be handled by mercantile agents. CNH Capital will then make a commercial determination as to whether legal action and recovery of the associated costs should be taken against the client to pursue loss recovery.

CNH Capital's policy is to book a partial charge-off against the outstanding balance when the equipment has been repossessed and the value of the equipment has been independently assessed. Based on this evaluation, the partial charge-off booked is the difference between the payout value of the loan and estimated equipment wholesale value. After the equipment is sold, a full charge-off is processed either as a write-back or an incremental charge-off based on the proceeds received.

## **CNH Capital Australia Receivables Trust**

In order to charge off an account a write off request is prepared setting out the details of the balance to write off, whether as a partial or a full, and an explanation of the charge off request and a recommendation to charge off the balance. The write-off request must be approved by the operations manager and/or the managing director prior to being processed.

The amount charged off is the principal balance of the account plus any interest earned but not collected, plus the costs of repossession, sale and recovery, less the proceeds of the equipment sale.

# CNH Capital Australia Receivables Trust

## 4. The Pool

### 4.1 Features of the Purchased Receivables

The Purchased Receivables comprise a pool of finance leases, commercial hire purchase agreements and goods mortgages which, as at the Cut-Off Date for each agreement (the following being the “**Eligibility Criteria**”):

- (a) the relevant Obligor’s principal place of business is in Australia;
- (b) any legislation relating to consumer credit does not apply to it;
- (c) was approved and originated by CNH Capital and NHC in accordance with the Guidelines and in the ordinary course of its business;
- (d) the Financed Property was at the date the Receivable was originated, the subject of an insurance policy in accordance with the Guidelines;
- (e) the final payment is due under the Receivable at least 3 months after the Cut-Off Date;
- (f) the commencement date of the Receivable Agreement is no earlier than 1 January 1997;
- (g) as at the date of origination it has a remaining term of not more than 72 months;
- (h) is denominated and payable only in Australian dollars in Australia;
- (i) CNH Capital and NHC have not received any notification that any Financed Property is defective or is non-operative;
- (j) to the best of CNH Capital’s or NHC’s (as the case may be) knowledge no Financed Property has been repossessed or been subject to an accident leading to total loss;

## CNH Capital Australia Receivables Trust

- (k) as at the date of origination, the principal outstanding of the Receivable did not exceed the aggregate of its acquisition cost including GST, plus freight cost, document fees, stamp duty and insurance;
- (l) the yield is greater than 3%;
- (m) the Financed Property was acquired for use in Australia;
- (n) CNH Capital and NHC are not aware of any event which will entitle it to terminate the Receivable Agreement;
- (o) the relevant Obligor has taken delivery of the relevant equipment and, to the extent that it is due and payable, the first payment under the Receivable Agreement has been made by the relevant Obligor;
- (p) no payment has been rescheduled other than in accordance with CNH Capital's or NHC's (as the case may be) collection policies;
- (q) CNH Capital and NHC are not subject after the date of origination to any outstanding commitment, obligation or liability (whether present or future, actual or contingent) under the Receivable Agreement to make any advance, payment, financial accommodation, compensation or indemnity of any nature to the relevant Obligor or any other party;
- (r) the obligations of the relevant Obligor under the Receivable Agreement and the obligations of each guarantor with respect to the Receivable Agreement will in each case rank at least *pari passu* with all their respective present and future unsecured obligations, save for obligations mandatorily preferred by law;
- (s) each guarantee relating to a Receivable Agreement is a continuing security for all amounts outstanding under the Receivable Agreement and the guarantee states that:

## CNH Capital Australia Receivables Trust

- (i) it is irrevocable by the guarantor before payment in full and discharge of all amounts payable under that Receivable Agreement;
  - (ii) all amounts owing by the relevant Obligor under the Receivable Agreement are recoverable from the guarantor under the guarantee; and
  - (iii) the liability of the guarantor will not be affected by any waiver or variation of any obligation of the relevant Obligor;
- (t) under the terms of the Receivable Agreement, the relevant Obligor is obliged:
  - (i) to bear all costs of operating, maintaining, servicing and repairing the relevant equipment; and
  - (ii) to pay the rental or other periodic payments irrespective of the condition or existence of the relevant equipment or any other fact or circumstance;
- (u) each Receivable Agreement is a fixed interest rate Receivable Agreement;
- (v) the relevant Obligor is not an employee of the CNH Global or any of its subsidiaries;
- (w) at least annual installments are payable by the relevant Obligor;
- (x) which has been documented using a Receivable Agreement which conforms with one of the pro forma agreements listed below:
  - (i) the standard New Holland Credit Finance Lease Agreement and the standard Case Credit Finance Lease Agreement;

## CNH Capital Australia Receivables Trust

- (ii) the standard New Holland Hire-Purchase Agreement and the standard Case Credit Hire-Purchase Agreement; or
- (iii) the standard New Holland Credit Loan and Mortgage Agreement and the standard Case Credit Loan and Mortgage Agreement;
- (y) the relevant Obligor is not in arrears for more than 90 days or in default in respect of the Receivable Agreement;
- (z) the principal outstanding of the Receivable is more than \$2,000;
- (aa) the loan purpose code in respect of the Receivable Agreement is not “21” or “30”;
- (bb) of which based on the term and the equipment type as set out in the following table, the balloon payment amount does not exceed the maximum balloon payment amount as a percentage of the purchase price of the vehicle:

<b>Vehicle Type</b>	<b>Term (Months)</b>	<b>Maximum balloon payment (as a percentage of the purchase price of the vehicle)</b>
Agricultural	0-12	70%
	13-24	60%
	25-36	50%
	37-48	45%

## CNH Capital Australia Receivables Trust

	49-60	40%
Construction	0-12	70%
Equipment	13-24	55%
	25-36	45%
	37-48	40%
	49-60	30%

The Receivables have been selected in an unbiased manner from CNH Capital and NHC's portfolio of agricultural and construction equipment finance leases, commercial hire purchase agreements and goods mortgages that met the Eligibility Criteria as at the Cut-Off Date. No selection procedures were used that are believed by CNH Capital or NHC to be adverse to the Noteholders.

### 4.2 Details of the Pool

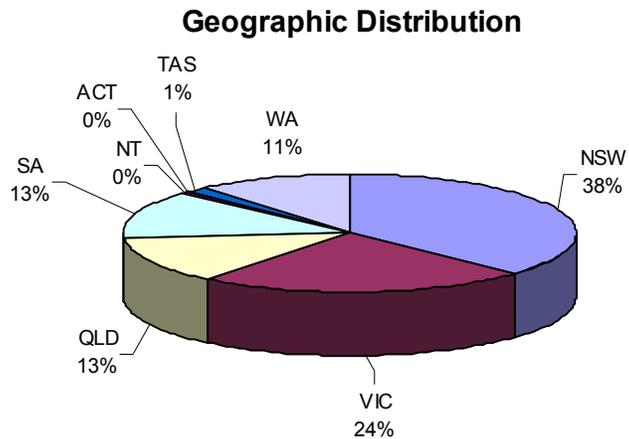
The following tables set out various details in relation to the Pool, as at 31 August 2002. It should be noted that these details may change between that date and the Note Issue Date (for example, due to prepayments and early discharges).

<b>CNH CAPITAL AUSTRALIA RECEIVABLES TRUST</b>	
<b>PORTFOLIO STATISTICS AS AT 31 AUGUST 2002</b>	
Number Of Contracts	10,797
Dollar Value Of Contracts	\$488,332,497.78
Average Term Of Contracts (Months)	50.17
Average Term To Maturity (Months)	26.78
Average Residual/Balloon Payment	8.46%
Average Seasoning (Months)	23.39
Average Dollar Value Of Individual Assets	\$43,345.69
Weighted Average Interest Rate	7.02%

## CNH Capital Australia Receivables Trust

Obligor Exposure - number of customers		
1% to 1.25%	-	\$ -
0.75% to 0.99%	-	\$ -
0.50% to 0.74%	1	\$ 3,547,902.37
0.25% to 0.49%	-	\$ -
< 0.24%	10,796	\$ 484,784,595.41
	<b>10,797</b>	<b>\$ 488,332,497.78</b>

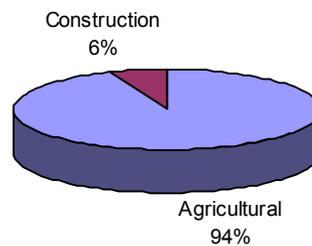
Geographic Distribution		
NSW	36.95%	\$ 180,447,575.64
VIC	23.81%	\$ 116,270,829.56
QLD	12.84%	\$ 62,695,705.60
SA	13.13%	\$ 64,123,046.60
NT	0.45%	\$ 2,218,395.52
ACT	0.17%	\$ 847,376.50
TAS	1.47%	\$ 7,157,686.61
WA	11.18%	\$ 54,571,881.75
	<b>100.00%</b>	<b>\$ 488,332,497.78</b>



## CNH Capital Australia Receivables Trust

Top Industry Distribution			
Agricultural	93.91%	\$	458,599,631.32
Construction	6.09%	\$	29,732,866.46
	<b>100.00%</b>	<b>\$</b>	<b>488,332,497.78</b>

### Top Industry Distribution

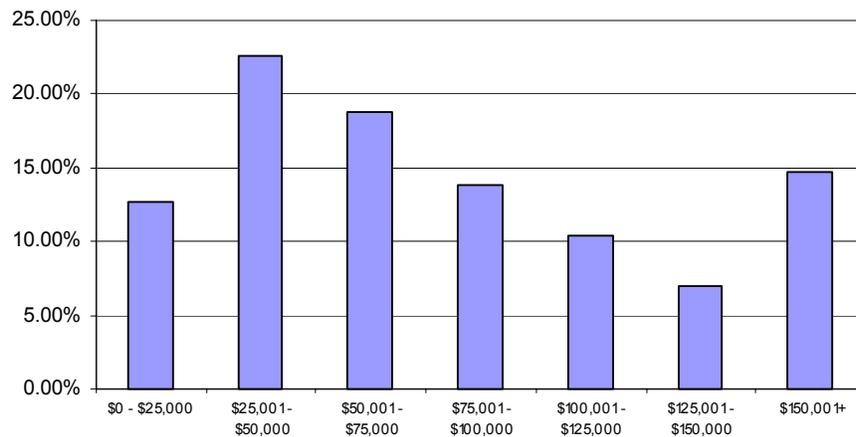


Collateral Types			
COMBINE	24.34%	\$	118,860,888.59
40-100 HP TRACTOR	18.51%	\$	90,404,262.83
OVER 100 HP TRACTOR	17.25%	\$	84,227,092.28
4 EWD TRACTOR	14.30%	\$	69,817,155.77
CULT,SEEDER,HARROW,CONCORD	4.91%	\$	23,971,614.96
OTHER AG	4.66%	\$	22,734,467.87
BALER, WINDROWER, MOWER	4.13%	\$	20,171,540.76
BACKHOE	1.94%	\$	9,491,333.37
SKIDSTEER / UNILOADER	1.77%	\$	8,644,739.93
SPRAY EQUIP (HARDI CROPLANDS)	1.76%	\$	8,609,508.50
CANE HARVESTERS	1.25%	\$	6,105,828.02
COTTON PICKER	1.24%	\$	6,069,349.40
OTHER CE	0.91%	\$	4,421,416.06
FRONTS	0.71%	\$	3,453,435.95
UNDER 40 HP TR	0.69%	\$	3,368,381.69
EXCAVATOR	0.66%	\$	3,214,918.65
WHEEL LOADER	0.53%	\$	2,576,407.96
IRRIGATION EQUIPMENT	0.17%	\$	806,104.70
TRENCHER	0.13%	\$	632,687.87
CRAWLER	0.10%	\$	509,754.62
ROLLER	0.05%	\$	241,608.00
	<b>100.00%</b>	<b>\$</b>	<b>488,332,497.78</b>

## CNH Capital Australia Receivables Trust

Contract Balance Distribution (based on Scheduled Payments)			
\$0 - \$25,000	12.63%	\$	61,555,775.67
\$25,001 - \$50,000	22.57%	\$	109,990,319.61
\$50,001 - \$75,000	18.74%	\$	91,321,057.15
\$75,001 - \$100,000	13.89%	\$	67,673,678.74
\$100,001 - \$125,000	10.40%	\$	50,687,951.13
\$125,001 - \$150,000	7.03%	\$	34,272,733.28
\$150,001+	14.74%	\$	71,829,468.19
	<b>100.00%</b>	<b>\$</b>	<b>487,330,983.77</b>

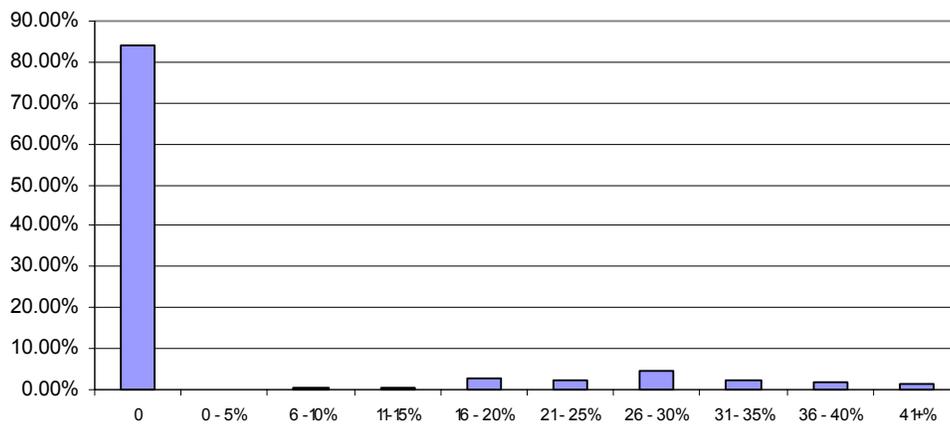
**Contract Balance Distribution**  
(based on Scheduled Payments)



# CNH Capital Australia Receivables Trust

Residual/Balloon Payment Distribution			
0	84.29%	\$	411,597,558.57
0 - 5%	0.10%	\$	473,904.18
6 -10%	0.26%	\$	1,257,439.81
11-15%	0.53%	\$	2,598,881.11
16 - 20%	2.61%	\$	12,727,068.55
21 - 25%	2.38%	\$	11,611,278.03
26 - 30%	4.42%	\$	21,598,704.34
31 - 35%	2.23%	\$	10,901,335.89
36 - 40%	1.69%	\$	8,236,191.82
41+%	1.50%	\$	7,330,135.48
	<b>100.00%</b>	<b>\$</b>	<b>488,332,497.78</b>

**Residual/Balloon Payment Distribution**

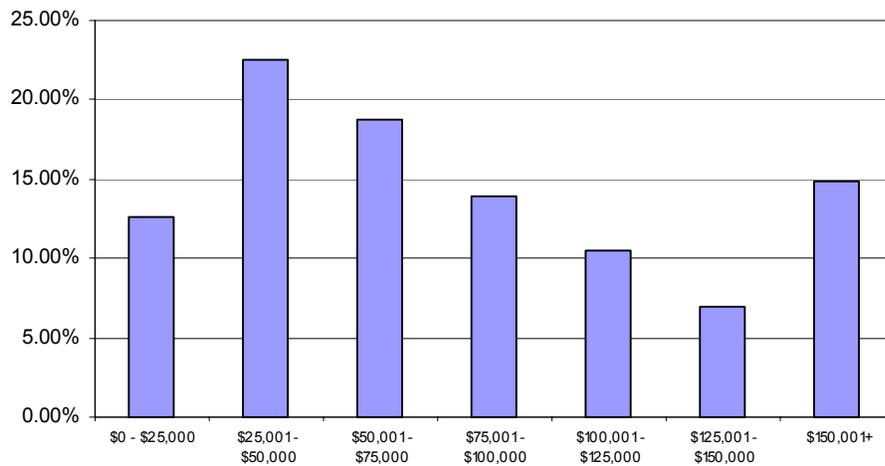


# CNH Capital Australia Receivables Trust

## CNH Capital Australia Receivables Trust

Client Balance Distribution			
\$0 - \$25,000	12.67%	\$	61,884,243.15
\$25,001 - \$50,000	22.49%	\$	109,806,644.26
\$50,001 - \$75,000	18.73%	\$	91,446,235.10
\$75,001 - \$100,000	13.92%	\$	67,956,228.85
\$100,001 - \$125,000	10.44%	\$	50,978,002.34
\$125,001 - \$150,000	6.92%	\$	33,776,242.75
\$150,001+	14.84%	\$	72,484,901.33
	<b>100.00%</b>	<b>\$</b>	<b>488,332,497.78</b>

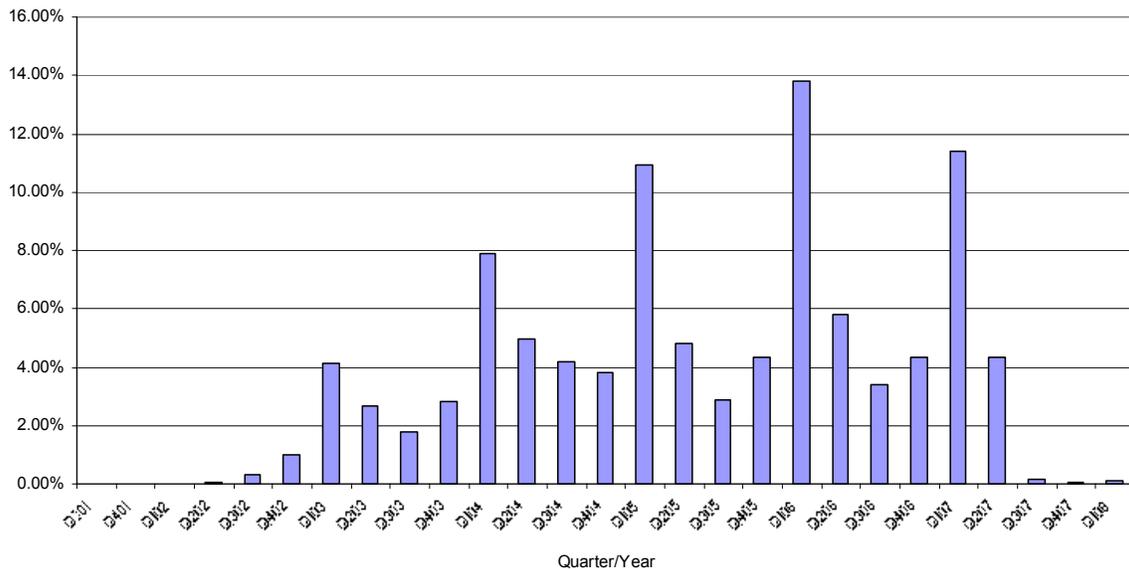
Client Balance Distribution



## CNH Capital Australia Receivables Trust

Quarter Of Maturity Distribution			
Q301	0.00%	\$	(104.23)
Q401	0.00%	\$	(770.92)
Q102	0.00%	\$	(3,024.38)
Q202	0.04%	\$	207,381.73
Q302	0.34%	\$	1,643,012.27
Q402	0.99%	\$	4,857,228.66
Q103	4.13%	\$	20,161,291.22
Q203	2.66%	\$	12,979,019.51
Q303	1.76%	\$	8,570,821.63
Q403	2.83%	\$	13,814,626.62
Q104	7.91%	\$	38,607,582.52
Q204	4.96%	\$	24,234,395.93
Q304	4.17%	\$	20,377,533.81
Q404	3.81%	\$	18,599,125.57
Q105	10.92%	\$	53,331,196.64
Q205	4.82%	\$	23,559,527.68
Q305	2.90%	\$	14,163,540.43
Q405	4.33%	\$	21,158,279.66
Q106	13.79%	\$	67,325,945.08
Q206	5.83%	\$	28,461,520.73
Q306	3.41%	\$	16,661,099.38
Q406	4.36%	\$	21,300,013.94
Q107	11.38%	\$	55,553,366.25
Q207	4.34%	\$	21,207,190.28
Q307	0.18%	\$	866,262.25
Q407	0.05%	\$	221,714.45
Q108	0.10%	\$	474,721.07
100.00%		\$	488,332,497.78

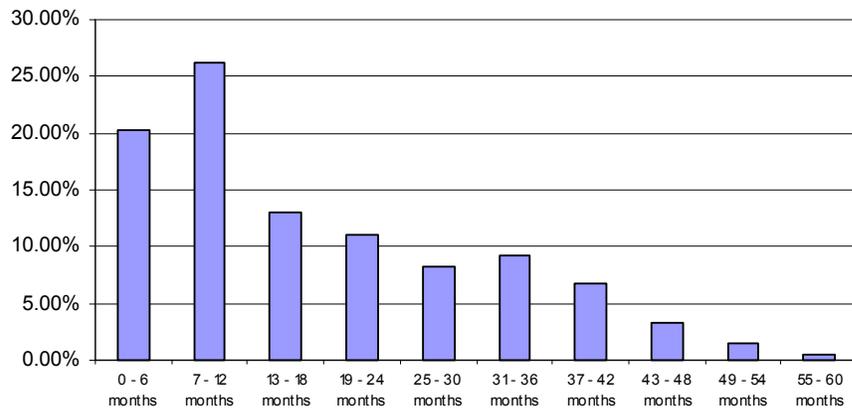
**Quarter of Maturity Distributions**



# CNH Capital Australia Receivables Trust

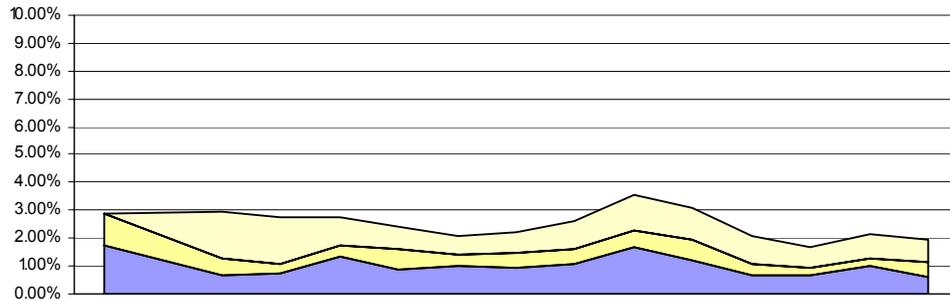
Seasoning Distribution			
0 - 6 months	20.23%	\$	98,767,759.52
7 - 12 months	26.27%	\$	128,290,359.55
13 - 18 months	13.05%	\$	63,710,171.83
19 - 24 months	11.01%	\$	53,758,168.09
25 - 30 months	8.32%	\$	40,638,247.12
31 - 36 months	9.15%	\$	44,688,470.69
37 - 42 months	6.70%	\$	32,717,992.01
43 - 48 months	3.23%	\$	15,751,494.56
49 - 54 months	1.53%	\$	7,451,179.85
55 - 60 months	0.52%	\$	2,558,654.56
	<b>100.00%</b>	<b>\$</b>	<b>488,332,497.78</b>

**Seasoning Distribution**



# CNH Capital Australia Receivables Trust

**CNH Capital Australia Receivables Trust - Arrears Performance**



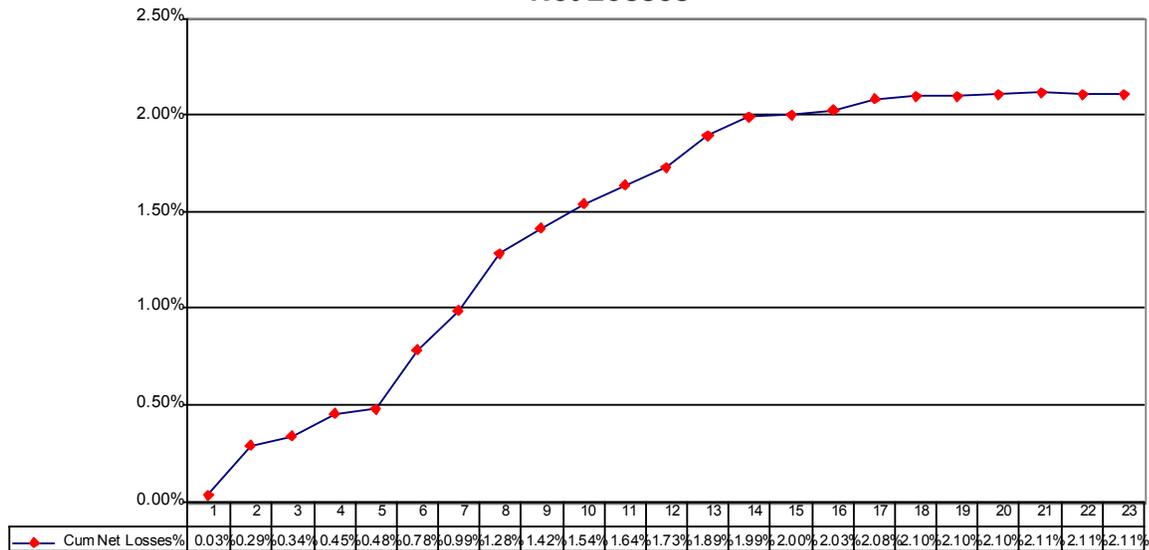
	30-Jun-01	31-Aug-01	30-Sep-01	30-Oct-01	30-Nov-01	31-Dec-01	31-Jan-02	28-Feb-02	31-Mar-02	30-Apr-02	31-May-02	30-Jun-02	31-Jul-02	31-Aug-02
90+ Days - %	0.00%	1.66%	1.68%	0.98%	0.77%	0.65%	0.77%	1.01%	1.23%	1.12%	1.02%	0.72%	0.85%	0.80%
61-90 Days - %	1.17%	0.60%	0.35%	0.42%	0.80%	0.43%	0.51%	0.53%	0.64%	0.71%	0.37%	0.33%	0.27%	0.53%
31-60 Days - %	1.72%	0.66%	0.72%	1.33%	0.84%	1.01%	0.94%	1.05%	1.67%	1.23%	0.70%	0.64%	1.03%	0.62%

# CNH Capital Australia Receivables Trust

## CNH Capital Australia Total Receivables Portfolio – Loss Curve Analysis

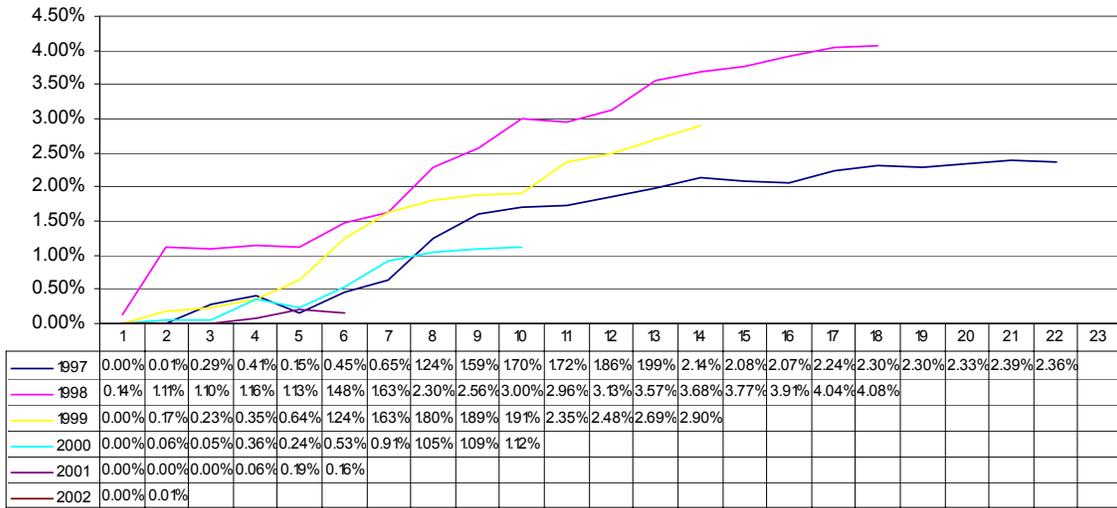
The following charts show the net cumulative losses sustained in respect of the total CNH Capital Australia portfolio from the date of origination of those receivables. The analysis takes into account recoveries made in respect of defaulted receivables. For example the first chart shows aggregate net losses, so in the 1<sup>st</sup> quarter following origination, net losses sustained in respect of the indicative pool were 0.03%, while in the 17<sup>th</sup> quarter since origination, net losses sustained were 2.08%. The Second Chart shows the same analysis, but on a year – by year basis not an aggregate basis.

**CNH Capital Australia - Consolidated Cumulative Net Losses**



# CNH Capital Australia Receivables Trust

## CNH Capital Australia - Cumulative Net Losses by Year of Origination

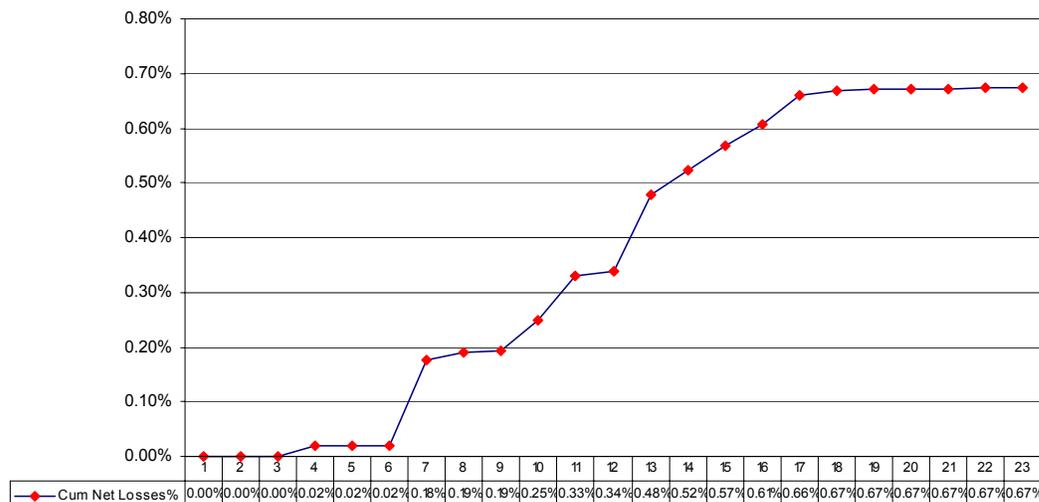


# CNH Capital Australia Receivables Trust

## CNH Capital Australia Receivables Trust – Loss Curve Analysis

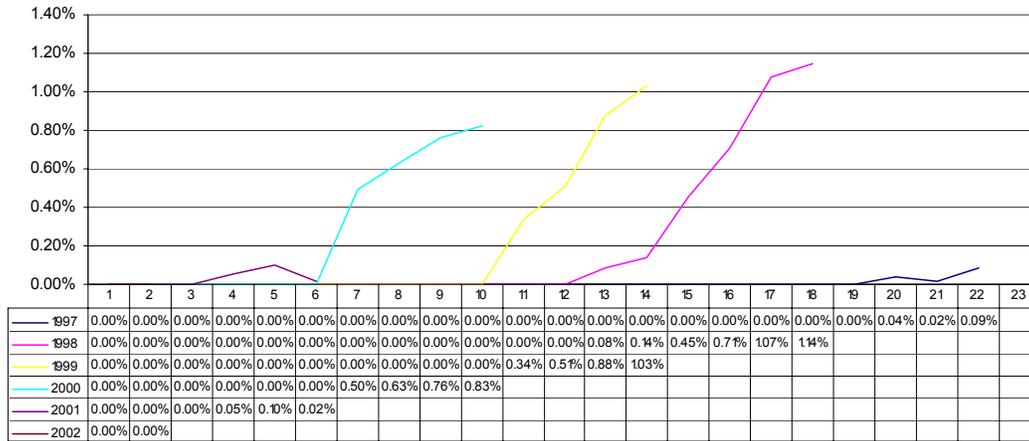
The following charts show the net cumulative losses sustained in respect of the CNH Capital Australia Receivables Trust portfolio from the date of origination of those receivables. The analysis takes into account recoveries made in respect of defaulted receivables. For example the first chart shows aggregate net losses, so in the 1<sup>st</sup> quarter following origination, net losses sustained in respect of the indicative pool were 0.00%, while in the 17<sup>th</sup> quarter since origination, net losses sustained were 0.66%. The Second Chart shows the same analysis, but on a year – by year basis not an aggregate basis.

**CNH Capital Australia Receivables Trust  
Consolidated Cumulative Net Losses**



# CNH Capital Australia Receivables Trust

**CNH Capital Australia Receivables Trust  
Cumulative Net Losses by Year of Origination**



## **CNH Capital Australia Receivables Trust**

### **5. Acquisition Of The Pool**

#### **5.1 Process of Acquisition**

The sale of the equitable interest in the Eligible Receivables by CNH Capital and NHC to the Trustee occurred on the following dates:

- 8 June 2001
- 10 December 2001
- 12 June 2002

The purchase price for the finance leases was payable in two installments. The first installment was paid on acceptance of the offer in the relevant Sale Notice, by the Trustee. The Trustee's obligation to pay the second installment arises only when the Trustee has received a GST refund from the Australian Taxation Office in relation to its purchase of the equitable interest in those finance leases and the underlying asset.

Those Receivables which were Eligible Receivables as at the relevant Cut-Off Date may form part of the Pool.

#### **5.2 Approved Seller's Representations and Warranties**

CNH Capital and NHC have assigned the equitable interest in certain Receivables to the Trustee. All Receivables must comply with the Eligibility Criteria as at the relevant Cut-Off Date.

CNH Capital makes various representations and warranties for the benefit of the Trustee in relation to the Receivables and Receivable Rights specified in the Sale Notices given by it and NHC, including:

- (a) all consents required in relation to the assignment of the Receivables and the related Receivable Rights specified in the

## CNH Capital Australia Receivables Trust

Sale Notice have been obtained. Those Receivables and Receivable Rights are assignable.

- (b) in relation to the Receivables which it has originated, it is the sole legal and beneficial owner of those Receivables and the related Receivable Rights specified in the relevant Sale Notice. In relation to the Receivables originated by NHC, NHC is the sole legal and beneficial owner of those Receivables and the related Receivable Rights specified in the relevant Sale Notice. Those Receivables and the related Receivable Rights, together with its interest under the Relevant Documents, are owned by it or NHC (as the case may be) free and clear of any security interest other than as created by the Trustee in connection with the Trust.
- (c) as at the relevant Cut-Off Date, each Receivable which is specified in the Sale Notice is an Eligible Receivable.
- (d) each Receivable and Receivable Security which is specified in the Sale Notice was originated in accordance with the Guidelines and is valid, binding and enforceable against the relevant Obligor(s) in all material respects except to the extent that it is affected by laws relating to creditors rights generally, or doctrines of equity.
- (e) it is not a deposit taking entity.
- (f)
  - (i) at the time each Receivable and Receivable Security which is specified in the Sale Notice was entered into it complied in all material respects with applicable laws.
  - (ii) legislation relating to consumer credit applies to the Receivables and Receivable Securities specified in the Sale Notice.

See the Master Trust Deed and the Series Notice for a full list of the representations and warranties.

## **CNH Capital Australia Receivables Trust**

### **5.3 Buy Back Provisions and Other Remedies**

If:

- (i) a representation and warranty given by the Approved Seller in relation to any Purchased Receivable is incorrect;
- (ii) the Approved Seller gives or receives a notice of that breach; and
- (iii) the Manager does not recommend that the Trustee waive the breach, or the Approved Seller does not remedy the breach within 5 Business Days from such notice,

then without any action being required by either party, the Approved Seller will be taken to have offered to repurchase the relevant Purchased Receivables and the related Receivables Rights for an amount equal to its Unpaid Balance.

On payment of the Unpaid Balance, the Trustee will cease to have any interest in the relevant Purchased Receivables and the related Receivables Rights and the Approved Seller will hold both the legal and beneficial interest in those Purchased Receivables and the related Receivable Rights.

Where the Approved Seller breaches a representation and warranty other than in the above circumstances, the Trustee's rights will be limited only to a claim for damages.

# CNH Capital Australia Receivables Trust

## 6. Credit Issues

This Section 6 outlines some potential issues which may impact upon the ability of the Trustee to pay Interest and make Principal Payments when due in respect of Notes.

As an outline, this discussion is not intended to be an exhaustive analysis of credit issues. Prospective subscribers for Notes should make their own independent evaluations and obtain independent advice as to whether to subscribe for Notes.

This Section 6 should also be read in conjunction with the other Sections of this Information Memorandum.

### 6.1 Credit Quality of the Pool

The Trustee's obligations to pay Interest and make Principal Payments in respect of Notes is, subject to the Transaction Documents, limited to amounts received by the Trustee including from:

- (i) the Purchased Receivables (for example, from regular payment installments, from prepayments and from enforcement of defaulted Purchased Receivables);
- (ii) Support Facilities and the Cash Reserve Account established in the Transaction; and
- (iii) the payment of damages by the Approved Seller, the Servicer or the Custodian for breaches of specified obligations in the Transaction Documents.

The performance of the Purchased Receivables will have a key impact on such payments in terms of both the timeliness of payments to Noteholders and the amount of such payments.

There are numerous factors which could affect the performance of the Purchased Receivables, including economic, social, legal and other

## CNH Capital Australia Receivables Trust

matters. Prospective subscribers should make their own assessment of the likely performance of the Purchased Receivables having regard to the information in this Information Memorandum. Please refer in particular to Sections 3 and 4. Prospective subscribers should note that there is no guarantee, representation or warranty as to the future performance of the Purchased Receivables, nor that they will perform in a similar manner to previous historical experience for finance leases, commercial hire purchase agreements and goods mortgages originated by CNH Capital and NHC.

Some factors which should be considered include:

**(a) Subordination of Seller Notes, Class B Notes and Class A2 Notes is a limited form of credit enhancement**

Unlike the securitisation of residential mortgages where mortgage insurance policies are often present, there is no equivalent general policy of insurance covering potential losses on the Purchased Receivables in this transaction.

The protection to Noteholders against credit losses on the Purchased Receivables is provided by virtue of various structural credit enhancements, more fully described in Sections 1.2(d) and 8.2 including the use of Excess Available Income to reinstate Charge Offs, subordination of the Seller Note (in the case of the Class A1 Notes, the Class A2 Notes and the Class B Notes), subordination of the Class B Notes (in the case of the Class A1 Notes and the Class A2 Notes) and subordination of the Class A2 Notes (in the case of the Class A1 Notes).

The liquidity protection to Noteholders is provided by the availability of the Cash Reserve to cover any Income Shortfall.

## **CNH Capital Australia Receivables Trust**

### **(b) The Level of Obligor Equity**

Under the terms of the commercial hire purchase agreements, the legal title to the underlying agricultural or construction equipment financed by the commercial hire purchase agreements remains with CNH Capital or NHC (as the case may be) until the relevant Obligors make the final contracted payment (which may be a lump sum “balloon” payment). If an Obligor defaults under the relevant commercial hire purchase agreement, CNH Capital or NHC (as the case may be) would be entitled to sell the underlying asset and use the sale proceeds to repay amounts outstanding under the agreement.

Similarly, under the terms of the finance leases, legal title to the underlying agricultural or construction equipment remains with CNH Capital or NHC (as the case may be). At the end of the finance lease term the Obligor may approach CNH Capital or NHC (as the case may be) to purchase the asset by paying the residual value of the asset or alternatively the Obligor may request an extension to the lease period. If the lease period is not extended, the Obligor may pay the residual to purchase the asset or alternatively CNH Capital or NHC (as the case may be) will realise the asset in the open market. If there is a shortfall from the sale to the open market, then under the finance leases, CNH Capital or NHC (as the case may be) can legally recover the shortfall from the Obligor.

It is possible that the market value for the relevant asset may be less than the amount outstanding under the agreement and result in a shortfall for CNH Capital or NHC (as the case may be) on enforcement and sale.

Under the terms of a goods mortgage, legal title to the underlying agricultural and construction equipment lies with the Obligor. If the Obligor defaults under the relevant agreement, CNH Capital or NHC (as the case may be) would be entitled to sell the underlying asset

## **CNH Capital Australia Receivables Trust**

and use the sale proceeds to repay amounts outstanding under the agreement.

Mitigants to this potential “negative-equity” risk include the fact that, under the terms of the finance leases, commercial hire purchase agreements and goods mortgages, Obligors are contractually bound to repay all amounts outstanding irrespective of the relevant asset’s value. This risk is also mitigated when the loan is structured by minimising balloon payments, and in the case of used equipment, by taking a very conservative estimate of used equipment valuations. Both CNH Capital and NHC are not solely reliant on asset resale and residual values to cover the balance of amounts outstanding.

### **(c) Likely Portfolio Performance**

The loss and arrears data presented in the Information Memorandum relates to the historical loss and arrears performance of the CNH Capital Total Portfolio and the Trust. There is no guarantee that future performance of either the CNH Capital Total Portfolio or the Trust will reflect historical performance.

## **6.2 Servicer Risk**

The Servicer has been appointed as servicer of the Purchased Receivables under the Master Trust Deed. A failure by the Servicer to properly perform its servicing obligations may have an impact on the amount of funds collected in respect of the Purchased Receivables.

In this regard, the Master Trust Deed and the Series Notice define certain Servicer Transfer Events (see Section 9.4(c)). The Master Trust Deed provides that following a Servicer Transfer Event:

- (i) the Trustee must (at the direction of the Manager) terminate the appointment of the Servicer and either appoint a replacement Eligible Servicer or, failing such appointment, itself act as Servicer; and

## **CNH Capital Australia Receivables Trust**

- (ii) the Servicer will fully indemnify the Trustee against damage or liability which the Trustee may incur as a consequence of the Servicer Transfer Event, subject to the terms of the Master Trust Deed.

There is no guarantee that a replacement Eligible Servicer will be found who would be willing to service the Purchased Receivables on the terms of the Master Trust Deed or that a replacement Eligible Servicer will be able to service the Purchased Receivables with the same level of skill, diligence and competence as the initial Servicer. The ability of any such person (whether it is the Trustee or a third party) to perform the servicing functions under the Master Trust Deed will also depend on the information and records available to it.

### **6.3 Manager Risk**

The Manager has been appointed to manage the Trust under the Master Trust Deed and this includes giving the necessary directions to the Trustee in the performance of its duties and obligations under the Transaction Documents. A failure by the Manager to properly perform its management obligations may also impact on the performance of the Trust. The Master Trust Deed provides that the Manager must retire if directed by the Trustee to do so if certain Manager defaults occur (for example, failure to make payments, insolvency, misrepresentation or breach of obligations). The circumstances under which the Manager must retire are described in more detail in Section 9.3(c).

### **6.4 Custodian Risk**

The Custodian has been appointed to act as custodian of the Relevant Documents in relation to the Purchased Receivable pursuant to the Custodian Agreement. The Custodian must retire if certain events occur, as described in Section 9.5(b).

## **CNH Capital Australia Receivables Trust**

### **6.5 Market Risks**

The Dealers have undertaken to use their reasonable endeavours, subject to market conditions, to promote a secondary market in the Notes to assist liquidity, including by assisting Noteholders so requesting it to locate potential purchasers for the Notes from time to time.

However there is no guarantee that a secondary market will develop, or if it does develop, that it will continue until the Final Maturity Date. None of the Dealers nor any other party to a Transaction Document guarantees that a Note held by a Noteholder can be sold to another investor or, if it can be sold, that the sale price would not be at a discount to the price originally paid by the Noteholder.

### **6.6 Term Risks**

Whilst the Trustee is obliged to repay the Stated Amount of all Notes in full by the Final Maturity Date, principal will be passed through to Noteholders on each Payment Date from Total Available Principal, as described in Section 7.7(c).

There is no guarantee as to the rate at which principal will be passed through to Noteholders. Accordingly, the actual date by which Notes are fully repaid cannot be precisely determined.

The rate at which the Purchased Receivables may repay or prepay principal is influenced by a range of factors including:

- the level of interest rates applicable to the Purchased Receivables relative to prevailing interest rates in the market;
- the default rate of Obligors under the Purchased Receivables;
- factors which may affect the market, resale or residual value of assets financed by Purchased Receivables such as economic conditions or tax and duty levels on the assets;

## **CNH Capital Australia Receivables Trust**

- economic, technological, demographic and social factors such as change in economic conditions, business competitor activity where Obligors are operating a business and technological change which may affect the value or utility of assets financed by the Purchased Receivables;
- the tax, accounting or other treatment of finance leases, commercial hire purchase agreements, goods mortgages or alternative financing products;
- the level of an Obligor's net equity in the financed assets;
- the rate at which Obligors change their financed assets; and
- the degree of seasoning of the Purchased Receivables.

Other factors which could result in early repayment of principal to Noteholders include:

- repurchase of Purchased Receivables by the Approved Seller due to a breach of a representation and warranty as described in Section 5.3;
- the Trustee exercising the Clean Up Call described in Section 2.4; and
- receipt of proceeds of enforcement of the charge under the Security Trust Deed prior to the Final Maturity Date of the Notes.

### **6.7 Interest Rate Risk**

The Purchased Receivables are paying fixed rates whilst the Trustee's liabilities (including Interest to Noteholder) are calculated on a floating rate basis. To hedge this interest rate risk, the Trustee has entered into Swaps with the Swap Provider. The Swap Provider's obligations under the Swaps are supported by the Back-up Swap Provider. The Back-up Swap Provider will assume the Swap

## **CNH Capital Australia Receivables Trust**

Provider's obligations under the Swaps on the occurrence of certain events of default set out in the First Master Agreement, including failure by the Swap Provider to make payments due under the Swaps.

This is described in more detail in Section 8.3.

### **6.8 Equitable Assignment**

The Receivables have been assigned by CNH Capital and NHC to the Trustee in equity. If a Title Perfection Event occurs, the Trustee and the Manager must take all reasonable steps to perfect the Trustee's legal title in and to the Purchased Receivables and the related Receivable Rights. Until then, the Trustee is not permitted to and it cannot, and will not, take any steps to perfect legal title, in particular it will not notify the Obligors of the equitable assignment of the Purchased Receivables and the related Receivable Rights to the Trustee.

Until an Obligor has notice of the assignment, that Obligor is not bound to make payments to anyone other than CNH Capital or NHC and can obtain a valid discharge for any such payments from CNH Capital or NHC. However, the Servicer undertakes to deal with all moneys received from Obligors in accordance with the Master Trust Deed and the Series Notice.

Whilst the Trustee holds only an equitable interest in the Purchased Receivables, it must join CNH Capital or NHC (as the case may be) as a party to any legal proceedings against any Obligor in relation to the enforcement of any Purchased Receivables.

Further, the Trustee's equitable interest in the Purchased Receivables may become subject to the interests of third parties created after the creation of the Trustee's equitable interest but prior to it acquiring a legal title. In this regard, the Servicer undertakes not to consent to the creation or existence of any security interest over the Purchased Receivables.

## **CNH Capital Australia Receivables Trust**

### **6.9 Enforcement of Security**

If the charge under the Security Trust Deed becomes enforceable and some or all of the Purchased Receivables are sold, there is no guarantee that the Security Trustee would be able to sell the Purchased Receivables for their then Unpaid Balance. This may adversely impact the Trustee's ability to repay all amounts outstanding in relation to the Notes. Any proceeds from the enforcement of the Security Trust Deed will be applied in the order of priority set out in the Security Trust Deed (see Section 10.3).

### **6.10 Fixed vs. Floating Charge**

The Security Trust Deed has been drafted as a first ranking fixed and floating charge over the Assets of the Trust. There is some uncertainty as to the legal effectiveness of a fixed charge over the Purchased Receivables in the circumstances of this transaction. However, even if it were to operate as a floating charge, the Trustee has granted it as a first ranking floating charge with priority over all security interests that have been granted in relation to the charged property. Further, the Security Trust Deed provides for automatic and immediate crystallisation of the floating charge to become a fixed charge on Events of Default (as defined in the Security Trust Deed) and other specified events.

### **6.11 Title Issues with Agricultural and Construction Equipment**

There is no universal system of registering title in relation to the agricultural and construction equipment financed by the Purchased Receivables although these interests are registered through the relevant State's Register of Encumbered Vehicles (REVS). Accordingly there can be no guarantee as to the validity of title with respect to the financed agricultural and construction equipment.

## **CNH Capital Australia Receivables Trust**

In mitigation of this, CNH Capital has represented and warranted that it is the sole legal and beneficial owner of each Receivable assigned by it to the Trustee, and that as at the relevant Cut-Off Date, each such Receivable is an Eligible Receivable. In addition, CNH Capital has also represented and warranted that in relation to the Receivables assigned by NHC to the Trustee, NHC is the sole legal and beneficial owner of those Receivables and that as at the relevant Cut-Off Date, each such Receivable is an Eligible Receivable.

### **6.12 Limited Liability Under the Notes**

The Notes are debt obligations of the Trustee in its capacity as trustee of the Trust. They are issued with the benefit of, and subject to, the Master Trust Deed, the Series Notice and the Security Trust Deed. The Trustee's liability in respect of the Notes is limited to the Assets of the Trust available in accordance with the terms of the Master Trust Deed and the Series Notice to meet its obligations in relation to the Notes and, except in certain limited circumstances, the Trustee will not be personally liable in respect of the Notes. See Section 9.2(a) for further information.

## **CNH Capital Australia Receivables Trust**

# **7. Cashflow Allocation Methodology**

## **7.1 General**

This Section describes the methodology for the calculation of the amounts to be paid by the Trustee on each Payment Date to, among others, the Noteholders (the “**Cashflow Allocation Methodology**”). The Series Notice provides for Collections to be allocated and paid every Quarter, in accordance with a set order of priorities, to satisfy the Trustee's obligations in relation to the Trust. Those priorities are detailed in this Section.

## **7.2 Collections and Payment**

Collections in respect of interest and principal will be received during each Collection Period. Primarily, Collections are derived from interest and principal receipts from the Purchased Receivables. Other sources of Collections are proceeds of enforcement of Purchased Receivables, payments by parties under the Transaction Documents in respect of breaches of representations, warranties or undertakings and interest on any amounts held in the Collection Account during the Collection Period.

The Manager will determine the Collections received and reconcile the receipts against expenses that have accrued for each Collection Period. The Manager will make these calculations in the time period between the last day of the Collection Period and the Determination Date (which is three Business Days before the relevant Payment Date).

Once the calculations are finalised on the Determination Date, the Manager will notify the Trustee of those calculations and direct the Trustee to make the necessary payments on the Payment Date. The Trustee will arrange for the relevant payments to occur on the

## **CNH Capital Australia Receivables Trust**

Payment Date, including payments of Interest and Principal to Noteholders and Seller Noteholders.

Payments of interest, fees and other amounts in the nature of income are mainly made from Total Available Income and are described in Section 7.5. Payments of principal are mainly made from Total Available Principal and are described in Section 7.7.

### **Collection Account**

The Servicer will receive the Collections in respect of Purchased Receivables in the Pool and shall pay all Collections in its possession (up to the Collections Transfer Amount) into the Collection Account on the Remittance Date (which is two Business Days before the relevant Payment Date). The Collections in excess of the Collections Transfer Amount must be deposited in the Collection Account on the next Business Day after its receipt. If the Performance Guarantee is unenforceable or the Performance Guarantor's credit rating falls below A-1 + (short term) from S&P or P-1 (short term) from Moody's, all Collections must be deposited into the Collection Account on the next Business Day after its receipt.

The Collection Account will be in the name of the Trustee, held with an Approved Bank, and will only have officers or employees of the Trustee or a Related Body Corporate (as defined in the Corporations Act) of the Trustee as authorised signatories.

### **7.3 Determining Available Income**

On each Determination Date the Manager will, for the immediately preceding Collection Period, calculate the Available Income.

Available Income means, for a Collection Period the aggregate of:

- (a) if the Net Swap Settlement for that Collection Period is payable to the Trustee, the Net Swap Settlement;
- (b) the Income Collections for that Collection Period being:

## CNH Capital Australia Receivables Trust

- (i) all amounts received by or on behalf of the Trustee from or on behalf of Obligors under the Purchased Receivables during that Collection Period in respect of finance charges, interest, fees and other amounts in the nature of income payable under or in respect of the Purchased Receivables and the related Receivable Rights, including:
  - (A) any amounts in the nature of interest or finance charge adjustments received by the Trust from an Approved Seller or any other person in relation to the transfer of Purchased Receivables or Purchased Receivable Securities from the Trust to that Approved Seller or that other person; and
  - (B) all payments in the nature of or which represent GST including any GST payable on the sale of a Purchased Receivable and the related Financed Property and any GST refund received by the Trustee from the Australian Taxation Office during that period, but specifically excludes any Initial GST Refund;
- (ii) all amounts in respect of finance charges, interest, fees and other amounts in the nature of income, received by or on behalf of the Trustee during that Collection Period, including:
  - (A) from an Approved Seller, in respect of any breach of a representation, warranty or undertaking contained in the Master Trust Deed or the Series Notice;
  - (B) from an Approved Seller under any obligation under the Master Trust Deed or the Series Notice to indemnify or reimburse the Trustee for any amount;
  - (C) from the Servicer in respect of any breach of a representation, warranty or undertaking contained in the Master Trust Deed;
  - (D) from the Servicer under any obligation under the Master Trust Deed to indemnify or reimburse the Trustee for any amount;
  - (E) from the Custodian in respect of any breach of a representation, warranty or undertaking contained in the Custodian Agreement;

## CNH Capital Australia Receivables Trust

- (F) from the Custodian under any obligation under the Custodian Agreement to indemnify or reimburse the Trustee for any amount,
- (G) from the Trustee in its personal capacity in respect of any breach of a representation, warranty or undertaking in respect of which it is not entitled to be indemnified out of the Assets of the Trust, or any indemnity from the Trustee in its personal capacity contained in the Transaction Documents; and
- (H) from the Manager in respect of any breach of a representation, warranty or undertaking of the Manager in respect of a breach of which it is not entitled to be indemnified out of the Assets of the Trust, or any indemnity from the Manager, contained in the Transaction Documents,

in each case which are determined by the Manager to be in respect of interest, fees and other amounts in the nature of income payable under the Purchased Receivables and the related Receivable Rights; and

- (iii) Recoveries received by or on behalf of the Trustee during that Collection Period; and
- (c) to the extent not included in paragraph (b):
- (i) any interest income received by or on behalf of the Trustee during that Collection Period in respect of any moneys credited to the Collection Account;
  - (ii) any interest income received by or on behalf of the Trustee during that Collection Period in respect of any moneys in the Cash Reserve Account;
  - (iii) amounts in the nature of interest otherwise paid by an Approved Seller, the Servicer or the Manager to the Trustee during that Collection Period in respect of all Collections held by it; and

## CNH Capital Australia Receivables Trust

- (iv) all other amounts received by or on behalf of the Trustee during that Collection Period in respect of the Assets in the nature of income.

### 7.4 Withdrawal from Cash Reserve Account and Principal Draws

#### (a) Cash Reserve

If the Manager determines on any Determination Date that the Available Income of the Trust is insufficient to meet Required Payments of the Trust (an “**Income Shortfall**”) for the relevant Collection Period the Manager must direct the Trustee to withdraw from the Cash Reserve Account an amount equal to the lesser of:

- (i) the Income Shortfall; and
- (ii) the amount of Cash Reserve available for distribution on the Payment Date following that Determination Date.

#### (b) Principal Draws

If the Manager determines on any Determination Date that the Available Income of the Trust and the Cash Reserve are insufficient to meet the payments set out in Section 7.5(b)(i) to b(xi) (inclusive) (a “**Payment Shortfall**”) on the following Payment Date for the relevant Collection Period the Manager must direct the Trustee to pay out of Total Available Principal, an amount (the “**Principal Draw**”) equal to the lesser of:

- (i) the Payment Shortfall; and
- (ii) the amount of Total Available Principal available for distribution on the Payment Date following that Determination Date.

Total Available Principal as used in this Section 7.4(b) does not include the amount of Principal Draws referred to in paragraph (v) of 7.7(b).

# CNH Capital Australia Receivables Trust

## 7.5 Distribution of Total Available Income

### (a) Determining Total Available Income

The Total Available Income for a Collection Period is made up of the Available Income for that Collection Period, the amount drawn from the Cash Reserve Account for that Collection Period to cover any Income Shortfall and the Principal Draw made for that Collection Period to cover any Payment Shortfall.

### (b) Distribution of Total Available Income

Subject to paragraph (c), on each Payment Date and based on the calculations and directions provided to it by the Manager, the Trustee must pay out of the Total Available Income in relation to the Collection Period ending immediately before that Payment Date, the following amounts in the following order of priority:

- (i) first, taxes payable in relation to the Trust for that Collection Period;
- (ii) second, the Trustee's Fee for that Collection Period;
- (iii) third, the Manager's Fee for that Collection Period;
- (iv) fourth, the Security Trustee's Fee for that Collection Period;
- (v) fifth, in or towards payment of any costs, charges or expenses incurred by the Trustee or the Security Trustee in relation to the Trust under the Transaction Documents, for that Collection Period;
- (vi) sixth, if CNH Capital is not the Servicer, the Servicer's Fee for that Collection Period;
- (vii) seventh, the Custodian's Fee for that Collection Period;
- (viii) eighth, in or towards payment of any costs, charges or expenses incurred by the Servicer in relation to the Trust under the Transaction Documents, for that Collection Period;
- (ix) ninth, in or towards reimbursement of the aggregate amount of any drawings from the Cash Reserve Account under Section 7.4(a), to the extent not previously reimbursed;
- (x) tenth, *pari passu* and rateably, to the Class A1 Noteholders, the Swap Provider and the Back-up Swap Provider, of all:
  - (A) the Interest on the Class A1 Notes for the Interest Period ending on that Payment Date;

## CNH Capital Australia Receivables Trust

- (B) the Net Swap Settlement under the Swap for that Collection Period;
  - (C) payments due by the Trustee to the Swap Provider or the Back-up Swap Provider (as the case may be) for that Collection Period; and
  - (D) the fees due by the Trustee to the Back-up Swap Provider for that Collection Period;
- (xi) eleventh, pari passu and rateably, amongst the Class A2 Noteholders, the Interest on the Class A2 Notes for the Interest Period ending on that Payment Date;
  - (xii) twelfth, pari passu and rateably, amongst the Class B Noteholders, the Interest on the Class B Notes for the Interest Period ending on that Payment Date;
  - (xiii) thirteenth, the break costs due by the Trustee to the Swap Provider or the Back-up Swap Provider (as the case may be) in respect of partially unwinding the Swap in respect of Receivables which have been prepaid or which have been Charged Off and which have not previously been paid and any other break costs due by the Trustee to the Swap Provider or the Back-up Swap Provider (as the case may be), for that Collection Period;
  - (xiv) fourteenth, if CNH Capital is the Servicer, the Servicer's Fee for that Collection Period;
  - (xv) fifteenth, in or towards reimbursement of the aggregate amount of any Principal Draws made but which have not previously been reimbursed; and
  - (xvi) sixteenth, any other Expenses relating to the Trust.

### (c) Limit

The Trustee shall only make a payment under paragraph (b) to the extent that any Total Available Income remains from which to make the payment after amounts with priority to that payment have been distributed.

### (d) Required Payments

In relation to a Collection Period, all amounts referred to in Section 7.5(b)(i) to (xvi) (inclusive), constitute "**Required Payments**".

# CNH Capital Australia Receivables Trust

## 7.6 Excess Available Income

### (a) Determining Excess Available Income

On each Determination Date, the Manager must determine, for the immediately preceding Collection Period, the amount (if any) by which the Total Available Income for that Collection Period exceeds the Required Payments for that Collection Period (being “**Excess Available Income**”).

### (b) Distribution of Excess Available Income

Subject to paragraph (c) and Section 7.8, on each Payment Date and based on the calculations and directions provided to it by the Manager, the Trustee must apply any Excess Available Income for the Collection Period ending immediately before that Payment Date, in the following order of priority:

- (i) first, to reinstate any Charge Offs which have occurred in the Collection Period;
- (ii) second, to reinstate any Charge Offs which have occurred in any previous Collection Period which have not previously been reinstated; and
- (iii) third, *pari passu* and rateably amongst the Seller Noteholders, the Interest on the Seller Notes for the Interest Period ending on that Payment Date.

Any amount applied pursuant to paragraphs (i) and (ii) will be treated as part of the Total Available Principal to the extent of that application.

The balance of the Excess Available Income (if any) after payment of the amounts in paragraphs (i), (ii) and (iii) shall be paid to the Residual Income Unit Holder in accordance with the Series Notice. The Trustee may not recover any distributions from the Residual Income Unit Holder once they are paid except where there has been a manifest error in the calculation of the amount payable to the Residual Income Unit Holder.

## **CNH Capital Australia Receivables Trust**

### **(c) Limit**

The Trustee shall only make a payment under paragraph (b) to the extent that any Excess Available Income remains from which to make the payment after amounts with priority to that payment have been distributed.

## **7.7 Principal Payments**

### **(a) Determining Principal Collections**

On each Determination Date, the Manager must determine Principal Collections for the immediately preceding Collection Period, being the aggregate of:

- (i) all amounts received by or on behalf of the Trustee from or on behalf of Obligors under the Purchased Receivables during that Collection Period in respect of principal, in accordance with the terms of the Purchased Receivables, including principal prepayments;
- (ii) all other amounts received by or on behalf of the Trustee under or in respect of principal under the Purchased Receivables and the related Receivable Rights during that Collection Period including:
  - (A) any payments by an Approved Seller or another person to the Trustee on the repurchase of a Purchased Receivable during that Collection Period which are attributable to principal; and
  - (B) all payments in the nature of or which represent GST including any GST payable on the sale of a Purchased Receivable and the related Financed Property and any GST refund received by the Trustee from the Australian Taxation Office during that Collection Period, but specifically excludes any Initial GST Refund; and
- (iii) all amounts received by or on behalf of the Trustee during that Collection Period:
  - (A) from an Approved Seller, in respect of any breach of a representation, warranty or undertaking contained in the Master Trust Deed or the Series Notice;

## CNH Capital Australia Receivables Trust

- (B) from an Approved Seller under any obligation under the Master Trust Deed or the Series Notice to indemnify or reimburse the Trustee for any amount;
- (C) from the Servicer, in respect of any breach of any representation, warranty or undertaking contained in the Master Trust Deed;
- (D) from the Servicer under any obligation under the Master Trust Deed to indemnify or reimburse the Trustee for any amount;
- (E) from the Custodian in respect of any breach of a representation, warranty or undertaking contained in the Custodian Agreement;
- (F) from the Custodian under any obligation under the Custodian Agreement to indemnify or reimburse the Trustee for any amount,
- (G) from the Trustee in its personal capacity in respect of any breach of a representation, warranty or undertaking in respect of which it is not entitled to be indemnified out of the Assets of the Trust, or any indemnity from the Trustee in its personal capacity contained in the Transaction Documents; and
- (H) from the Manager in respect of any breach of a representation, warranty or undertaking of the Manager in respect of a breach of which it is not entitled to be indemnified out of the Assets of the Trust, or any indemnity from the Manager, contained in the Transaction Documents,

in each case, which are determined by the Manager to be in respect of principal payable under the Purchased Receivables and the related Receivable Rights.

### **(b) Determining Total Available Principal**

The Total Available Principal for a Collection Period is made up of the following:

- (i) the Principal Collections for that Collection Period;
- (ii) the amount of any Total Available Income applied towards repayment of Principal Draws under Section 7.5(b) for that Collection Period;

## **CNH Capital Australia Receivables Trust**

- (iii) the amount of any Excess Available Income applied towards reinstating Charge Offs under Section 7.6(b) for that Collection Period or any previous Collection Period;
- (iv) any proceeds of an issue of Notes which were not utilised for the acquisition of Receivables or the redemption of the Warehouse Notes on the Note Issue Date; less
- (v) the amount of any Principal Draws to be made on the Payment Date immediately following that Collection Period.

### **(c) Principal Payments**

Subject to paragraph (d), on each Payment Date, and based on the calculations and direction provided to it by the Manager, the Trustee must pay out of Total Available Principal in relation to the Collection Period ending immediately before that Payment Date, the following amounts in the following order of priority:

- (i) first, to the Class A1 Noteholders as Class A1 Principal Payments until the Class A1 Stated Amounts have been reduced to zero;
- (ii) second, to the Class A2 Noteholders as Class A2 Principal Payments until the Class A2 Stated Amounts have been reduced to zero;
- (iii) third, to the Class B Noteholders as Class B Principal Payments until the Class B Stated Amounts have been reduced to zero; and
- (iv) fourth, to the Seller Noteholders as Seller Principal Payments until the Seller Stated Amounts have been reduced to zero.

### **(d) Limit**

The Trustee shall only make a payment under paragraph (c) to the extent that any Total Available Principal remains from which to make the payment after amounts with priority to that payment have been distributed.

## **7.8 Charge Offs**

The Trustee must apply the Excess Available Income of a Collection Period for the reinstatement of Charge Offs which have occurred in that Collection Period or

## **CNH Capital Australia Receivables Trust**

which have occurred in any previous Collection Period and which have not previously been reinstated under Section 7.6(b), in the following order of priority:

- (i) first, pari passu and rateably, to reinstate the Class A1 Stated Amounts;
- (ii) second, to reinstate the Class A2 Stated Amounts;
- (iii) third, to reinstate the Class B Stated Amounts; and
- (iv) fourth, to reinstate the Seller Stated Amounts.

### **7.9 Rounding of Amounts**

In making the calculations required or contemplated by this Cashflow Allocation Methodology, the Manager shall round calculations to four decimal places, except that all monetary amounts shall be rounded down to the nearest cent.

### **7.10 Payment Priorities Following an Event of Default: Security Trust Deed**

If the charge under the Security Trust Deed is enforced following the occurrence of an Event of Default (as defined in the Security Trust Deed), the priority of payments with respect to the Trust will be governed by the Security Trust Deed (see Section 10.3).

## **CNH Capital Australia Receivables Trust**

### **8. Structural Enhancements**

#### **8.1 Cash Reserve Account**

The “Cash Reserve Account” is an interest bearing account opened by the Trustee and maintained with an Approved Bank called the “CNH Capital Australia Receivables Trust – Cash Reserve Account”.

CNH Capital will apply A\$12,600,000 of the proceeds of issue of the Warehouse Notes towards establishing the Cash Reserve, which must be deposited and then maintained in the Cash Reserve Account.

Whilst any Notes or Seller Notes are outstanding, after utilisation of the Available Income, the Cash Reserve will be available to meet Required Payments as described in Section 7.4(a). On the Final Maturity Date, the Cash Reserve may be applied to repay the Stated Amounts of outstanding Notes and Seller Notes. Thereafter, any remaining balance in the Cash Reserve Account will be paid to CNH Capital. The Cash Reserve cannot be used by the Trustee for any other purpose.

#### **8.2 Subordination Arrangements**

The Excess Available Income of the Trust for a Collection Period will be applied to cover, among other things, any Charge Offs which have occurred in that Collection Period and any Charge Offs which have occurred in any previous Collection Period and which have not previously been reinstated. The Charge Offs will be applied to reduce the Seller Note Stated Amount until zero.

After the Seller Note Stated Amounts have been reduced to zero and if there are Charge Offs remaining, the Class B Stated Amounts will be reduced by those remaining Charge Offs until zero.

## CNH Capital Australia Receivables Trust

After the Class B Stated Amounts have been reduced to zero and if there are Charge Offs remaining, the Class A2 Stated Amounts will be reduced by those remaining Charge Offs until zero.

Only when the Class A2 Stated Amounts have been reduced to zero and Charge Offs remain, will the Class A1 Stated Amounts be reduced by those remaining Charge Offs until zero.

The Available Income, Cash Reserve and Principal Draw will be used to meet the Interest payable on the Class A1 Notes in priority to the Interest payable on the Class A2 Notes and the Class B Notes (see Section 7.5(b)).

The Available Income, Cash Reserve and Principal Draw will be used to meet the Interest payable on the Class A2 Notes in priority to the Class B Notes (see Section 7.5(b)).

The Available Income and Cash Reserve will be used to meet the Interest payable on the Class B Notes (see Section 7.5(b)).

Interest payable on the Seller Notes will be made from the Excess Available Income (see Section 7.6(b)).

Given that Principal Draws may be made to meet a Payment Shortfall (which could include a shortfall in Interest payable on the Class A2 Notes), payment of principal to the Class A1 Noteholders may in certain circumstances be deferred to payment of Interest to the Class A1 Noteholders and the Class A2 Noteholders. Principal Draws would be repaid from the Total Available Income in accordance with Section 7.5(b).

### 8.3 The Swap Agreements

The Trustee has entered into swaps with the Swap Provider until the Final Maturity Date of the Notes (each a “**Swap**”) adopting the ISDA Master Agreement amended by a schedule and a confirmation (the “**First Master Agreement**”).

## CNH Capital Australia Receivables Trust

The Swaps are used to hedge the interest rate risk between the fixed rates payable by Obligors under the Purchased Receivables and the floating rate obligations of the Trust (for example, the Interest Payments on the Notes).

Under a Swap, on each Payment Date the Trustee will pay to the Swap Provider a fixed rate (as determined by the calculation agent) on an agreed principal amount and receive from the Swap Provider the applicable Three Month Bank Bill Rate. The terms of the Swaps allow for netting of payments.

The Swap Provider's obligations under the Swaps are supported by the Back-up Swap Provider. Pursuant to the Novation Agreement, the Back-up Swap Provider will assume the Swap Provider's obligations under the Swaps on the occurrence of certain events of default set out in the First Master Agreement, including failure by the Swap Provider to make payments due under the Swaps. The Swaps will be novated to the Back-up Swap Provider (as floating rate payer) as if the Back-up Swap Provider had been named as a party to the Swaps instead of the Swap Provider. The Swaps will cease to be governed by the First Master Agreement and instead is deemed to have been and is governed at all times by the Second Master Agreement.

The Back-up Swap Provider is required to be rated A-1 (from S&P) and P-1 (from Moody's) (the "**Required Rating**").

Under the First Master Agreement, if (prior to the Back-up Swap Provider assuming the obligations of the Swap Provider under the Swaps) the short term credit rating of the Back-up Swap Provider falls below the Required Rating, it must (at its own expense) find a replacement counterparty with the Required Rating to assume its obligations under both the Novation Agreement and the Second Master Agreement. If no such replacement counterparty is found within the time period specified, the Back-up Swap Provider will be

## **CNH Capital Australia Receivables Trust**

required to post or procure the posting of cash collateral to the Trustee. The cash collateral will be used, amongst others, to make payments to the Trustee under the Swaps.

If the Back-up Swap Provider fails to find a replacement counterparty with the Required Rating or post cash collateral to the Trustee within the time period specified, then the Swap Provider is obliged to either find such a replacement counterparty or pay cash collateral to the Trustee.

Where the Back-up Swap Provider has already assumed the obligations of the Swap Provider under the Swaps (pursuant to the Novation Agreement), it also has the obligation to either find a replacement counterparty with the Required Rating or post cash collateral to the Trustee if its short term credit rating falls below the Required Rating.

### **8.4 Performance Guarantee**

The Servicer's obligations under the Master Trust Deed and the Series Notice are being supported by a guarantee from the Performance Guarantor. The Performance Guarantor guarantees the due and punctual performance and observance by the Servicer of its duties and obligations if either:

- (i) the Servicer is not a direct or indirect wholly owned subsidiary of CNH Global; or
- (ii) the long term credit rating assigned to the senior unsecured debt obligation of CNH Global is less than BBB- by S&P and Baa3 by Moody's, or is withdrawn by both Rating Agencies.

### **8.5 Title Perfection Reserve Account**

The Title Perfection Reserve Account is an interest bearing account opened by the Trustee and maintained with an Approved Bank called

## **CNH Capital Australia Receivables Trust**

the “CNH Capital Australia Receivables Trust – Title Perfection Reserve Account”.

CNH Capital has deposited A\$7,500,000 into the Title Perfection Reserve Account. The Title Perfection Reserve can only be utilised by the Trustee to pay all costs and expenses in relation to the perfection of the Trustee’s legal title to the Purchased Receivables and related Receivable Rights following the occurrence of a Title Perfection Event. A list of the Title Perfection Events is set out in Section 9.8. The Title Perfection Reserve cannot be used by the Trustee for any other purpose.

To the extent that the Title Perfection Reserve is no longer required for the purpose set out in the preceding paragraph and if there are no outstanding Notes or Seller Notes, it will be returned to CNH Capital.

# **CNH Capital Australia Receivables Trust**

## **9. The Trust**

### **9.1 General**

The Trust was established pursuant to the Master Trust Deed, a Notice of Creation of Trust dated 7 June 2001 and the Series Notice. The Trust is separate and distinct from any other trust established under the Master Trust Deed, and accordingly, the Assets of the Trust are not available to meet the liabilities of any other trust and the assets of any other trust are not available to meet the liabilities of the Trust.

### **9.2 The Trustee**

The Trustee is appointed as trustee of the Trust on the terms set out in the Master Trust Deed and the Series Notice.

The Trustee's powers include the power to invest in Receivables and other Authorised Investments, to borrow and raise moneys by the issue of Notes, to enter into and perform its obligations under the Transaction Documents and (with the written agreement of the Manager) to do all such things incidental to any of its powers or necessary or convenient to be done for or in connection with the Trust or its functions under the Master Trust Deed.

The Trustee has the power to delegate the exercise of its rights, powers and discretions in accordance with the Transaction Documents.

The Trustee must act honestly and in good faith, use its best endeavours to carry on and conduct its business in a proper and efficient manner and to exercise such diligence and prudence as a prudent person of business would exercise in performing its express functions and in exercising its discretions under the Master Trust

## CNH Capital Australia Receivables Trust

Deed having regard to the interests of the Unit Holders, the Noteholders and other creditors of the Trust.

The specific powers, rights, discretions, duties and obligations of the Trustee are set out in the Master Trust Deed and other Transaction Documents.

The Trustee has no duty, and is under no obligation to investigate whether a Manager's Default, Servicer Transfer Event or Title Perfection Event has occurred in relation to the Trust other than where it has actual notice.

The Trustee is required to provide the notices referred to in the Master Trust Deed in respect of a determination of Material Adverse Effect only if it is actually aware of the facts giving rise to the Material Adverse Effect.

In making any such determination, the Trustee will seek and rely on advice given to it by its advisers in the manner contemplated by the Master Trust Deed.

The Trustee is entitled to rely conclusively on, and is not required to investigate the accuracy of:

- (a) the contents of a Sale Notice given to it by CNH Capital or NHC (as the case may be);
- (b) the contents of any report given to it by the Manager or the Servicer;
- (c) any calculations, information, document, form or list supplied or purported to be supplied to it or made by CNH Capital or NHC, the Servicer or the Manager including the calculation of payments due to, or to be charged against, the Noteholders, any Unit Holders, CNH Capital or NHC on specified dates;
- (d) the amount of, or allocation of, Collections; or
- (e) the contents of any certificate provided to the Trustee under the Master Trust Deed,

## **CNH Capital Australia Receivables Trust**

unless the Trustee is actually aware to the contrary. The Trustee is not liable to any person in any manner whatsoever in respect of these matters.

The Master Trust Deed and the Series Notice also contain other provisions which regulate the Trustee's liability to Noteholders, other creditors and any Unit Holders. The Trustee is not liable to any person for any losses, costs, liabilities or expenses arising out of the exercise or non-exercise of its discretions (or by the Manager of its discretions) or for any instructions or directions given to it by the Manager or the Servicer except to the extent that it is caused by the Trustee's fraud, negligence or Default. The Trustee is also not liable for any Manager's Default, Service Transfer Event or Title Perfection Event. The Trustee is not liable for any act, omission or default of the Servicer or the Custodian in relation to their duties and obligations under the Master Trust Deed or the Custodian Agreement, as the case may be.

### **(a) Limitation of Trustee's Liability**

The Trustee will not be liable personally in the event of failure to pay moneys on the due date for payment to any Noteholder, any Unit Holders, the Manager or any other person or for any loss howsoever caused in respect of the Trust or to any Noteholder, any Unit Holders, the Manager or other person, in the absence of fraud, negligence or Default on its part.

The Trustee acts as Trustee only in its capacity as trustee of the Trust and in no other capacity. A liability arising under or in connection with the Master Trust Deed or the Trust is limited to and can be enforced against the Trustee only to the extent to which it can be satisfied out of the Assets of the Trust out of which the Trustee is actually indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of the Transaction Documents and extends to all liabilities and obligations of the Trustee in any way

## CNH Capital Australia Receivables Trust

connected with any representation, warranty, conduct, omission, agreement or transaction related to the Transaction Documents or the Trust. The limitation will not apply if there is a reduction in the Trustee's indemnification out of the Assets of the Trust as a result of the Trustee's fraud, negligence or Default.

### (b) Indemnity

The Trustee will be indemnified out of the Assets of the Trust against all losses and liabilities properly incurred by the Trustee in performing any of its duties or exercising any of its powers under the Transaction Documents in relation to the Trust except where the Trustee fails to exercise due care or is otherwise disentitled (including for fraud, negligence or Default).

### (c) Fees and Expenses

The Trustee will receive a quarterly fee based on the aggregate principal outstanding of the Purchased Receivables on the first day of the relevant Collection Period, payable in arrears on the relevant Payment Date. The Trustee's Collection Fee is inclusive of GST but is subject to adjustment to take into account any change in the rate of GST payable pursuant to the A New Tax System (Goods and Services Tax Imposition – General) Act 1999.

The Trustee will be reimbursed out of the Assets of the Trust for all expenses incurred in connection with the performance of its obligations in respect of the Trust (but not general overhead costs and expenses).

### (d) Removal and Retirement of the Trustee

The Trustee must retire as trustee if directed by the Manager following certain events including ("**Trustee's Retirement Event**"):

- (i) an Insolvency Event has occurred and is continuing in relation to the Trustee in its personal capacity;

## CNH Capital Australia Receivables Trust

- (ii) any action is taken by or in relation to the Trustee in its personal capacity which may give rise to a Rating Downgrade Event;
- (iii) the Trustee, or any employee or officer of the Trustee breaches any obligation or duty imposed on the Trustee under the Master Trust Deed or any other Transaction Document in relation to the Trust where the Manager reasonably believes it may have a Material Adverse Effect and the Trustee fails or neglects after 20 Business Days' notice from the Manager to remedy that breach (unless the Rating Agencies confirm in writing that the breach will not give rise to a Rating Downgrade Event);
- (iv) the Trustee merges or consolidates with another entity unless:
  - (A) the Manager consents to the merger or consolidation (which consent shall not be unreasonably withheld); or
  - (B) within 5 Business Days of the merger consolidation, the Manager has received written confirmation from the Rating Agencies that the merger or consolidation will not give rise to a Rating Downgrade Event; or
- (v) any of the above occurs in relation to any other trust constituted under the Master Trust Deed.

The Trustee will bear the costs of its removal and will not be indemnified from the Assets of the Trust for such costs.

The Manager is entitled to appoint a replacement statutory trustee on removal of the Trustee if the Rating Agencies confirm in writing that the appointment of that replacement Trustee will not give rise to a Rating Downgrade Event.

The Trustee may voluntarily resign on giving to the Manager (with a copy to the Rating Agencies) not less than 3 months' notice in writing (or such other period as the Manager and the Trustee may agree) of its intention to do so, provided a replacement Trustee who is approved by the Manager is appointed and the Rating Agencies confirm in writing that the appointment of that replacement trustee will not give rise to a Rating Downgrade Event. If a replacement Trustee has not been appointed by the date which is 30 days before the end of the 3 months' notice period, the Manager must appoint a

## **CNH Capital Australia Receivables Trust**

replacement Trustee. The appointment will only be effective if the Rating Agencies confirm in writing that the appointment of the replacement Trustee will not give rise to a Rating Downgrade Event and the replacement Trustee executes such document agreeing to become bound by the obligations of the outgoing Trustee under the Transaction Documents and granting certain indemnity to the outgoing Trustee and the creditors of the Trust.

### **9.3 The Manager**

The Manager is appointed as manager of the Trust on the terms set out in the Master Trust Deed and the Series Notice.

The Manager will have certain duties and obligations under the Master Trust Deed and the other Transaction Documents, including the administration and servicing of the Assets (which are not serviced by the Servicer), borrowings and other liabilities of the Trust and the day to day operation of the Trust.

The Manager has the power to delegate the performance of its duties and obligations under the Master Trust Deed in accordance with the Transaction Documents.

#### **(a) Limitation on Manager's Liability**

The Manager will not be personally liable to indemnify the Trustee or make any payments to any other person in relation to the Trust. However there is no limit on the Manager's liability for any fraud, negligence or wilful default by it in its capacity as the Manager of the Trust.

The Manager will be indemnified out of the Assets of the Trust for any liability, cost or expense which it properly incurs in its capacity as Manager of the Trust.

## CNH Capital Australia Receivables Trust

### (b) Fees and Expenses

The Manager will receive a quarterly fee based on the aggregate principal outstanding of the Purchased Receivables on the first day of the relevant Collection Period, payable in arrears on the relevant Payment Date. The Manager's Fee is exclusive of GST and shall be grossed up for the GST payable by the Manager.

The Manager will be reimbursed out of the Assets of the Trust for all expenses incurred in connection with the performance of its obligations in respect of the Trust (but not general overhead costs and expenses).

### (c) Removal and Retirement of the Manager

The Manager must retire as manager if directed by the Trustee following the occurrence of any of the following events ("**Manager's Default**"):

- (i) the Manager fails to allocate any amounts received in respect of the Trust to the Collection Account or fails to make or instruct the Trustee to make any payment required from it within the time period specified in a Transaction Document, and does not remedy that failure within 2 Business Days of receipt from the Trustee of notice of that failure;
- (ii) an Insolvency Event has occurred and is continuing in relation to the Manager;
- (iii) the Manager breaches any obligation or duty under the Master Trust Deed, any other Transaction Document or any other deed, agreement or arrangement entered into by the Manager under the Master Trust Deed in relation to the Trust, and the Manager fails after 21 Business Days' notice from the Trustee (which notice specifies the breach with reasonable particularity and requires rectification) to remedy that breach except, in each case, where the Manager has relied on information provided, or other action taken, by a Servicer or has not received information from the Servicer which the Manager requires to comply with its obligation or duty and the Servicer's action or inaction (as the case may be) is not due to the Manager's fraud, negligence or wilful default;

## CNH Capital Australia Receivables Trust

- (iv) a representation, warranty or statement made by or on behalf of the Manager in a Transaction Document or a document provided under or in connection with a Transaction Document, is not true in a material respect or is misleading or deceptive when repeated and is not remedied to the Trustee's reasonable satisfaction within 60 Business Days after notice from the Trustee where (as determined by the Trustee acting on appropriate expert advice) it has a Material Adverse Effect;
- (v) a Title Perfection Event has occurred and is continuing; or
- (vi) any of the above occurs with respect to any other trust constituted under the Master Trust Deed.

The Manager will bear the costs of its removal and indemnifies the Trustee for those costs.

The Trustee may appoint another manager if the Manager is removed provided that the Rating Agencies confirm in writing that the appointment of the successor Manager will not give rise to a Rating Downgrade Event. Until a replacement manager is appointed, the Trustee must act as manager.

The Manager may resign voluntarily on giving to the Trustee (with a copy to the Rating Agencies) not less than 6 months' notice in writing (or such other period as the Manager and the Trustee may agree) of its intention to do so, provided a successor Manager who is approved by the Trustee, or who may be the Trustee, and the Rating Agencies confirm in writing that the appointment of the successor Manager will not give rise to a Rating Downgrade Event. If a successor Manager has not been appointed by the date which is 30 days before the end of the 6 months' notice period, the Trustee may appoint a successor Manager. The appointment will only be effective if the Rating Agencies confirm in writing that the appointment of the successor Manager will not give rise to a Rating Downgrade Event and the successor Manager executes such document agreeing to be bound by all the covenants on the part of the Manager under the Transaction Documents.

## **CNH Capital Australia Receivables Trust**

### **9.4 The Servicer**

CNH Capital has been appointed as the Servicer of the Purchased Receivables under the Master Trust Deed.

The Servicer will service the Purchased Receivables in accordance with the applicable Guidelines in the ordinary course of its business, by exercising the degree of diligence and care expected of an appropriately qualified Servicer of the relevant financial products and otherwise in accordance with the Master Trust Deed.

The Servicer may delegate its duties under the Master Trust Deed but will still remain liable for the performance of services in accordance with the Master Trust Deed and for the acts or omissions of its delegate.

To the extent that it will not cause a Material Adverse Effect, the Servicer has powers including to waive any fees and break costs on the Purchased Receivables, arrange the rescheduling of interest due and unpaid following a default under any Purchased Receivable, and waive any right in respect of any Purchased Receivable in the ordinary course of servicing the Purchased Receivables. However the Servicer has undertaken not to release an Obligor from any amount owing in respect of a Purchased Receivable or otherwise vary or discharge any Purchased Receivable or Purchased Receivable Security or enter into any agreement which has the effect of altering the amount payable in respect of a Purchased Receivable or a Purchased Receivable Security except as required by law or where it would not have a Material Adverse Effect.

To the extent that it will not cause a Material Adverse Effect, the Servicer also has the power to grant an extension of maturity beyond 72 months from the date the Receivable was originated when required to do so by law or a government agency. This power is

## CNH Capital Australia Receivables Trust

permitted notwithstanding a Material Adverse Effect if the extension is required by law or a government agency.

The Servicer has been appointed by the Trustee as its agent to prepare and issue GST invoices in relation to the Purchased Receivables, the Purchased Receivable Securities and the Financed Property.

### (a) Undertakings

The Servicer makes various undertakings in the Master Trust Deed including that it will comply with applicable laws, collect and pay moneys in relation to Purchased Receivables in accordance with specified standards. If a Material Default (as defined in the Master Trust Deed) occurs in respect of a Purchased Receivable, the Servicer must take such action to enforce the relevant Purchased Receivable in accordance with its normal procedures and to the extent that the Servicer determines that enforcement procedures should be taken and it must not knowingly take any action or fail to take action if the action or failure will interfere with the enforcement procedures of any Purchased Receivables.

In performing its services, the Servicer must consider if its acts or omissions will have any Material Adverse Effect.

Except for purposes of complying with any law or if the consent of the Manager and the Lead Manager has been obtained or if the Rating Agencies have confirmed in writing that the amendment will not give rise to a Rating Downgrade Event, the Servicer shall not amend the Guidelines in any way that may result in:

- (i) a Material Adverse Effect;
- (ii) a material adverse effect on the ability of the Servicer or the Manager to perform its obligations under the Transaction Documents; or
- (iii) a material adverse effect on the rights of the Trustee in respect of the Purchased Receivables and Purchased Receivable Securities.

## CNH Capital Australia Receivables Trust

### (b) Servicer's Fee

The Servicer will receive a quarterly fee for servicing the Purchased Receivables based on the aggregate principal outstanding of the Purchased Receivables on the first day of the relevant Collection Period, payable in arrears on the relevant Payment Date. The Servicer's Fee is exclusive of GST and shall be grossed up for the GST payable by the Servicer.

### (c) Removal and Retirement of the Servicer

The Trustee must (at the direction of the Manager) terminate the Servicer's appointment (and the Servicer indemnifies the Trustee against all expenses resulting from the termination) if any of the following events has occurred ("**Servicer Transfer Events**"):

- (i) an Insolvency Event occurs with respect to the Servicer;
- (ii) the Servicer fails to pay any amount in accordance with any Transaction Document within 5 Business Days of receipt of a notice from the Trustee or the Manager to do so;
- (iii) the Servicer fails to comply with any of its other obligations under any Transaction Document and such action has had, or if continued will have, a Material Adverse Effect and that failure is not remedied within 20 Business Days;
- (iv) any representation, warranty or certification made by the Servicer is incorrect when made and is not waived by the Trustee or remedied to the Trustee's reasonable satisfaction within 30 Business Days after notice, and the Trustee determines that breach would have a Material Adverse Effect;
- (v) the Servicer fails to prepare and submit to the Manager in a timely fashion any information so required under the Transaction Documents and such failure will have a Material Adverse Effect and, if capable of remedy, is not remedied within 5 Business Days of notice delivered to the Servicer by the Trustee or the Manager;
- (vi) the Servicer breaches its obligations in relation to the amendments to, and provision of copies of, the Guidelines and the Rating Agencies have

## CNH Capital Australia Receivables Trust

advised in writing that such breach gives rise to a Rating Downgrade Event;

- (vii) two consecutive adverse audit report (which discloses that the results of the relevant audit fail to achieve a 97% confidence level and a 5% tolerable error in relation to the test performed) are received in relation to the performance by the Servicer of its obligations under the Master Trust Deed and the Series Notice; or
- (viii) the Annualised Rolling Average Charge-Off Percentage being at any time greater than 8%.

The Servicer will bear the costs of its removal and indemnifies the Trustee costs.

Pending the appointment of another Eligible Servicer, the Trustee shall act as the standby Servicer.

The Servicer may voluntarily resign provided it gives 6 months' notice to the Rating Agencies, the Manager and the Trustee. If an Eligible Servicer has not been appointed to be the Servicer by the expiration of that notice period the Servicer must continue to act as Servicer and shall be entitled to the Servicer's Fee.

### (d) **Transfer of Relevant Documents**

The Servicer must on the occurrence of a Servicer Transfer Event deliver all Relevant Documents in its possession to the Trustee. The Trustee has a licence from the Servicer to enter onto its premises for the purpose of taking possession and removing Relevant Documents if a Servicer Transfer Event has occurred.

## **9.5 The Custodian**

The Custodian is responsible for custody of the relevant documents for the Purchased Receivables including the Receivable Agreement, mortgage document and any document of title for the Receivable Securities and any amendment or replacement of such documents ("**Relevant Documents**") on behalf of the Trustee, pursuant to the

## CNH Capital Australia Receivables Trust

Custodian Agreement and in accordance with its policies and procedures relating to the receipt, holding, dealing and release of documents (the “**Custodial Procedures**”). The procedures include keeping the Purchased Receivables and Relevant Documents separate from other documents, maintaining reports on movements of documents and being able to locate security packets.

The Custodian must act honestly and in good faith and must demonstrate the degree of care and diligence which would reasonably be required of an appropriately qualified custodian.

The Custodian will be audited every 6 months in relation to its Custodial Procedures by external auditors appointed by the Custodian with the approval of the Trustee. If the audit report discloses that the system for tracking and recording is faulty or there are any other major deficiencies in internal controls in respect of the Relevant Documents such that the Relevant Documents may be removed or tampered with without proper authorisation or that the Relevant Documents are not in their designated file, a further external audit must be conducted.

### (a) **Custodian’s Fee**

The Custodian will receive a quarterly fee based on the aggregate principal outstanding of the Purchased Receivables on the first day of the relevant Collection Period, payable in arrears on the relevant Payment Date. The Custodian’s Fee is exclusive of GST and shall be grossed up for the GST payable by the Custodian.

### (b) **Removal and Retirement of the Custodian**

The Trustee may terminate the Custodian's appointment by giving not less than 30 days' prior notice to the Custodian if any of the following has occurred (“**Custody Transfer Event**”):

- (i) a subsisting Servicer Transfer Event;

## **CNH Capital Australia Receivables Trust**

- (ii) a further external audit which is required following the semi-annual audit of the Custodian's procedure and compliance with the Custodian Agreement, results in an adverse audit report;
- (iii) any failure by the Custodian to comply with any of its obligations under the Custodian Agreement which (if capable of remedy) has subsisted for at least 5 Business Days;
- (iv) an Insolvency Event in relation to the Custodian;
- (v) any notice by the Trustee or Security Trustee to the Custodian that it believes that, in the interests of the Chargees, a transfer of the Relevant Documents is necessary; or
- (vi) any notice by the Security Trustee to the Custodian that it is enforcing its security interests created under the Security Trust Deed.

If a Custody Transfer Event has occurred, it must deliver at its expense the Relevant Documents to, or at the direction of, the Trustee.

The Custodian may voluntarily resign provided it gives 6 months' notice to the Rating Agencies, the Trustee and the Security Trustee.

### **9.6 Termination of the Trust**

#### **(a) Termination Events**

The Trust will terminate on the earliest to occur of:

- (a) the eightieth anniversary of the date of creation of the Trust;
- (b) the date upon which the Trust terminates under statute or general law;
- (c) the Business Day immediately following the date upon which all Noteholders and other creditors of the Trustee in its capacity as trustee of the Trust have been repaid in full, and the Trustee has received a confirmation from the Australian Taxation Office that the Trustee has lodged its final tax return in relation to the Trust; or

## CNH Capital Australia Receivables Trust

- (d) following the occurrence of an “Event of Default” under the Security Trust Deed, the Security Trustee has enforced to the fullest extent that it is able to do so all of its powers under the Security Trust Deed which arise on the occurrence of that Event of Default or on the Security Trust Deed becoming enforceable, and has distributed all of the amounts which it is required to distribute under the Security Trust Deed, and the Trustee has received a confirmation from the Australian Taxation Office that the Trustee has lodged its final tax return in relation to the Trust,

such earliest date being the “**Termination Date**”.

### **(b) Realisation of Trust Assets**

When the Trust is terminated, subject to the Approved Seller’s right of first refusal described below, the Trustee must sell and realise the Assets of the Trust and so far as reasonably practicable and reasonably commercially viable, complete sale within 180 days after the Termination Date. During the 180 day period after the Termination Date, the Purchased Receivables, if performing, must be sold for their Unpaid Balance and in the case of non-performing Purchased Receivable, their Fair Market Value. The Servicer (in consultation with the Trustee or the Unit Holders) will determine whether a Purchased Receivable is performing or non-performing.

### **(c) Approved Seller's Right of First Refusal**

As soon as practical after the Termination Date, the Trustee must offer irrevocably to extinguish in favour of the Approved Seller, or if the Trustee has perfected its title, to assign to the Approved Seller, its entire right, title and interest in and to the Purchased Receivables, and related Receivable Rights for their Unpaid Balance (for performing Purchased Receivables) and their Fair Market Value (for non-performing Purchased Receivables).

## **CNH Capital Australia Receivables Trust**

The Trustee will not sell any Purchased Receivables to another party unless the Approved Seller has failed to accept the offer within 90 days after the occurrence of the Termination Date by paying the purchase price to the Trustee within that period.

### **9.7 Meeting of Noteholders and Seller Noteholders**

#### **(a) Meeting Procedures**

The Trustee, the Manager, Noteholders (which for the purposes of this Section 9.7 shall be taken to include the Seller Noteholders) or a Class of Noteholders holding in aggregate not less than 5% of the Invested Amounts of all Notes issued by the Trust (which, for the purposes of this Section 9.7 shall be taken to include the Seller Note) or in that Class of Notes may at any time convene a meeting of the Noteholders or that Class (as the case may be).

At least 5 Business Days' notice must be given to the Noteholders of a meeting unless a shorter period of time is approved by 95% of the holders of the then outstanding Notes of the Trust or the Class. The notice must specify, amongst others, certain information including the day, time and place of the proposed meeting, the agenda, and the terms of any proposed resolution. Accidental omission to give notice or the non-receipt of notice by any Noteholder will not invalidate the proceedings at any meeting.

The quorum for a meeting is two or more persons being Noteholders holding, or representatives of Noteholders holding or representing, in the aggregate not less than 67% of the Invested Amounts of all Notes issued by the Trust or constituting the Class (as the case may be). The Master Trust Deed sets out the procedures to be followed if a quorum is not present within 15 minutes from the time appointed for any meeting.

Every resolution submitted to any meeting will be decided initially by show of hands and the chairman of the meeting shall have a casting

## **CNH Capital Australia Receivables Trust**

vote in case of equality of votes. A question will be decided by poll if demanded by the chairman, the Trustee, the Manager or by one or more Noteholders holding in aggregate not less than 2% of the Notes issued and then outstanding by the Trust or constituting the Class (as the case may be). Every Noteholder holding then outstanding Notes will have one vote on a show of hands and one vote for each Note held by them on a poll.

An Extraordinary Resolution passed at a meeting of the Noteholders or a Class duly convened and held in accordance with the Master Trust Deed will be binding on all the Noteholders or the relevant Class whether or not present at such meeting.

A resolution of the Noteholders or any Class of Noteholders (including an Extraordinary Resolution) may be passed, without any meeting or previous notice being required, by an instrument in writing which has been signed by all the Noteholders of the Trust or of a Class (as the case may be).

### **(b) Powers of a Meeting of Noteholders and Seller Noteholders**

The powers of a meeting of Noteholders are specified in the Master Trust Deed (including to sanction action which the Trustee, Manager or Servicer propose to take, and to consent to the amendment of Transaction Documents) and can only be exercised by an Extraordinary Resolution. A meeting of Noteholders does not have the power to:

- (i) remove the Servicer or the Manager from office;
- (ii) interfere with the management of the Trust;
- (iii) wind up or terminate the Trust (except as contemplated in the Master Trust Deed);
- (iv) alter the Authorised Investments of the Trust;
- (v) amend any Transaction Document (except as contemplated in the Master Trust Deed); or

## CNH Capital Australia Receivables Trust

- (vi) alter the Payment Dates, Interest and Principal Payments, or other terms of the Series Notice in relation to any Notes (except as contemplated in the Master Trust Deed).

### 9.8 Perfection Of Title

If a Title Perfection Event occurs, the Trustee and the Manager must take all reasonable steps (and the Servicer must take all action available to assist) to perfect the Trustee's title in and to the Purchased Receivables and related Receivable Rights, and may:

- (a) complete, execute and register on behalf of the Approved Seller any relevant transfers of the Trustee's interest in the Receivable Securities;
- (b) give notice of any sale of Purchased Receivable to the relevant Obligors;
- (c) give notice of the perfection of its title in the Purchased Receivables and related Receivable Rights to any other interested persons;
- (d) do anything else reasonably necessary to perfect its interest in the relevant Purchased Receivables and related Receivable Rights; and/or
- (e) require the then existing payment instructions of each Obligor to be amended as so specified by the Trustee and the Manager.

The Approved Seller has also granted a power of attorney to certain officers of the Trustee and the Security Trustee (if the Charge has been enforced) to undertake any of the actions in paragraphs (a) to (e) above following the occurrence of a Title Perfection Event.

The Approved Seller agrees that on being directed to do so by the Trustee following a Title Perfection Event, it must promptly (and in any event within 10 Business Days or such longer period as the Trustee permits) take all action to perfect the Trustee's legal title to the

## CNH Capital Australia Receivables Trust

Purchased Receivables and related Receivable Rights by giving written notice of the Trustee's interest to any Obligor, registering any relevant transfer of the Trustee's interest in any Receivable Security, taking any other action required or permitted by law to perfect such legal title and delivering all Relevant Documents relating to the Purchased Receivables to the Trustee.

Each of the following is a “**Title Perfection Event**” in relation to the Purchased Receivables:

- (i) an Insolvency Event occurs with respect to the Approved Seller;
- (ii) the Approved Seller breaches any representation, warranty, covenant or undertaking made by it in a Transaction Document, which breach would give rise to a Rating Downgrade Event and if capable of remedy, is not remedied within 5 Business Days (or such longer period approved by the Trustee in its discretion) of the date on which the Approved Seller is notified of the breach by the Trustee or Manager;
- (iii) the Manager breaches any representation, warranty, covenant or undertaking made by it in a Transaction Document, which breach would give rise to a Rating Downgrade Event and if capable of remedy, is not remedied within 5 Business Days (or such longer period approved by the Trustee in its discretion) of the date on which the Manager is notified of the breach by the Trustee or Servicer;
- (iv) the Servicer purports to resign without the Trustee agreeing to act in its place or an eligible servicer being appointed as successor Servicer in accordance with the Master Trust Deed;
- (v) either any Approved Seller or the Servicer (for so long as it is CNH Capital) fails to pay an amount when due to the Trustee under any Transaction Document and such failure is not

## **CNH Capital Australia Receivables Trust**

remedied within 5 Business Days of notice from the Trustee or the Manager requiring the failure to be remedied; and

- (vi) if CNH Capital is the Servicer, a Servicer Transfer Event occurs (as detailed in Section 9.4(c)).

### **9.9 Audit and Accounts**

An Auditor will be appointed to the Trust. The auditor must:

- (a) audit the annual accounts prepared by the Manager for each financial year in respect of the Trust; and
- (b) provide a written report detailing the nature and extent of audit performed and the results of the audit to the Trustee, the Security Trustee and the Rating Agencies.

The Noteholders can inspect but not photocopy a copy of the audited accounts of the Trust and any Auditor's report at the offices of the Manager.

### **9.10 Income Tax**

The cashflows associated with the Trust are such that it is expected that the Trust will have minimal, if any, taxable income for taxation purposes and that any such income will be taxed in the hands of the Residual Income Unit Holder rather than in the hands of the Trustee. The Servicer shall prepare and lodge all necessary income tax returns and other statutory returns for the Trust. The Manager and the Trustee have received an opinion from Allens Arthur Robinson confirming the application of the relevant taxation principles.

### **9.11 Amendments to the Master Trust Deed**

The Trustee, the Manager and the Servicer may by way of supplemental deed amend the Master Trust Deed or the Series Notice so long as such amendment is:

## **CNH Capital Australia Receivables Trust**

- (a) to correct a manifest error or ambiguity or is of a formal, technical or administrative nature only;
- (b) necessary to comply with the provisions of any statute or regulation or with the requirements of any government agency; or
- (c) appropriate or expedient as a consequence of an amendment to any statute or regulation or altered requirements of any government agencies.

Where in the reasonable opinion of the Trustee a proposed amendment to the Master Trust Deed is prejudicial or likely to be prejudicial to the interests of the Noteholders or a Class of the Noteholders or the Unit Holders of the Trust, such amendment may only be effected by the Trustee with the prior consent of the Noteholders or that particular Class of the Noteholders (as the case may be) under an Extraordinary Resolution of the Noteholders or Class of Noteholders or with the prior written consent of the Unit Holders (as the case may be).

### **9.12 Unit Holders**

The beneficial interest of the Trust will be constituted by the issue of:

- (a) a single Residual Income Unit to CNH Capital on the establishment of the Trust on 7 June 2001; and
- (b) a single Residual Capital Unit to Allens Arthur Robinson Corporate Advisory Pty Limited on or about the Note Issue Date.

These units are not transferable and no other Units may be issued. Each of the Residual Income Unit Holder and the Residual Capital Unit Holder holds the beneficial interest in the Trust in accordance with the Master Trust Deed and the Series Notice.

# CNH Capital Australia Receivables Trust

## 10. The Security Structure

### 10.1 General

Under the Security Trust Deed, the Trustee has granted a first ranking, fixed and floating charge over all of the Assets and undertakings of the Trust in favour of the Security Trustee to secure the Trustee's obligations to the Noteholders, the Seller Noteholder, the Manager, the Servicer, the Custodian, Security Trustee, the Swap Provider, the Back-up Swap Provider and any other providers of Support Facility to the Trust and the Approved Seller in respect of any Accrued Interest Adjustment (as defined in the Master Trust Deed) (together, those creditors being the “**Chargees**”).

### 10.2 Enforcing the Security

If the Security Trustee becomes actually aware of the occurrence of an “Event of Default” under the Security Trust Deed, the Security Trustee must promptly convene a meeting of the Voting Chargees to seek directions. The Security Trustee may waive an Event of Default before it is required to convene a meeting of the Voting Chargees if that Event of Default is not materially prejudicial to the Chargees' interests. No Chargee is entitled to apply for the liquidation or dissolution of the Security Trustee or levy execution or appoint a receiver or administrator to any assets of the Security Trustee (other than the Assets or the Trust).

Each of the following is an “Event of Default” under the Security Trust Deed:

- (i) The Trustee fails to pay:
  - (A) any Interest in respect of the Class A1 Notes within 3 Business Days of the Interest Payment Date which the Interest was due to be paid, together with all interest accrued and payable on that Interest; or
  - (B) any other Secured Moneys within 3 Business Days of the due date for payment (or within any applicable grace

## CNH Capital Australia Receivables Trust

period agreed with the Chargees), other than in respect of the following:

- (1) any payment to a Class A2 Noteholder, a Class B Noteholder or a Seller Noteholder.  
Notwithstanding the foregoing provision, so long as the Invested Amount of the Class A1 Notes is fully repaid, any failure by the Trustee to pay any Interest in respect of the Class A2 Notes, Class B Notes or the Seller Notes within 5 Business Days of the Interest Payment Date on which that Interest was due to be paid, together with all interest accrued and payable on that Interest shall constitute an Event of Default; or
  - (2) any payment of outstanding break costs due and payable from the Trustee to the Swap Provider or the Back-up Swap Provider (as the case may be) pursuant to the Series Notice unless the Trustee has sufficient funds to pay those break costs after application of the Total Available Income in accordance with the order of priority set out in the Series Notice and the Trustee fails to pay those break costs to the Swap Provider or the Back-up Swap Provider (as the case may be).
- (ii) The Trustee fails to perform or observe any other provisions (other than an obligation referred to in paragraph (i)) or a Transaction Document where such failure will have a Material Adverse Effect and that default (if in the opinion of the Security Trustee is capable of remedy) is not remedied after written notice (or such longer period as may be specified in the notice) from the Security Trustee requiring the failure to be remedied.

## CNH Capital Australia Receivables Trust

- (iii) A representation or warranty by or on behalf of the Trustee in a Transaction Document is not true in a material respect or is misleading when made or repeated.
- (iv) An Insolvency Event occurs in relation to the Trustee in its capacity as trustee of the Trust or in its personal capacity and a successor trustee is not appointed in accordance with the Master Trust Deed within 20 Business Days of the occurrence of the Insolvency Event.
- (v) The charge is not or ceases to be a first ranking charge over the Assets of the Trust or any other obligation of the Trustee (other than as mandatorily preferred by law) ranks ahead of or pari passu with any of the Secured Moneys.
- (vi) Any security interest over the Assets of the Trust is enforced.
- (vii) All or any part of any Transaction Document is terminated or is or becomes void, illegal, invalid, unenforceable or of limited force and effect, or a party becomes entitled to terminate, rescind or avoid all or part of any Transaction Document (except where that party waives its rights to terminate, rescind or avoid the relevant Transaction Document).
- (viii) Without the prior consent of the Security Trustee:
  - (a) the Trust is wound up or the Trustee is required to wind up the Trust under the Master Trust Deed or applicable law, or the winding up of the Trust commences;
  - (b) the Trust is held or is conceded by the Trustee not to have been constituted or to have been imperfectly constituted; or
  - (c) unless another trustee is contemporaneously and immediately appointed to the Trust under the Transaction Documents, the Trustee ceases to be

## CNH Capital Australia Receivables Trust

authorised under the Trust to hold the property of the Trust in its name and to perform its obligations under the Transaction Documents.

For the avoidance of doubt, a failure by the Trustee to make a payment to a Class A2 Noteholder, a Class B Noteholder or a Seller Noteholder shall not be an Insolvency Event or any other Event of Default (other than the Event of Default set out in paragraph (i)(B)(2)).

The Trustee and the Manager must promptly notify the Noteholders, Security Trustee and the Rating Agencies if, to the knowledge of its officers who are responsible for the administration of the Trust, it becomes aware of the occurrence of an Event of Default, Trustee's Retirement Event, Servicer Transfer Event, Custody Transfer Event, Title Perfection Event or Manager's Default including full details of the Event of Default, Trustee's Retirement Event, Servicer Transfer Event, Custody Transfer Event, Title Perfection Event or Manager's Default (as the case may be). Following the Security Trustee becoming actually aware of an Event of Default, it must promptly convene a meeting of the Voting Chargees in accordance with the Security Trust Deed, at which it will seek directions from the Voting Chargees regarding the action it should take as a result of the Event of Default.

The Security Trust Deed provides that the Trustee and the Security Trustee will only be considered to have knowledge or notice of or be aware of any thing if the Trustee or the Security Trustee (as the case may be) has knowledge, notice or awareness of that matter or thing by virtue of the actual knowledge, notice, or awareness of the officers or employees of the Trustee or the Security Trustee (as the case may be) having day to day responsibility for the administration of the Trust or the security trust established under the Security Trust Deed. In addition, notice, knowledge or awareness of an Event of Default means notice, knowledge or awareness of the occurrence of the

## CNH Capital Australia Receivables Trust

events or the circumstances constituting an Event of Default and that those events or circumstances do constitute an Event of Default.

At the meeting, the Voting Chargees must vote by Extraordinary Resolution in relation to matters including:

- (a) to direct the Security Trustee in the action that should be taken by it following the occurrence of an Event of Default or the Charge or the Security Trust Deed becoming enforceable;
- (b) to sanction any action that the Security Trustee or a receiver proposes to take to enforce the provisions of the Security Trust Deed;
- (c) to sanction any proposal by the Manager, the Trustee or the Security Trustee for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Chargees against the Trustee or the Manager whether such rights shall arise under the Security Trust Deed, the Transaction Documents or otherwise;
- (d) to sanction the exchange or substitution of the Secured Moneys for, or the conversion of the Secured Moneys into, bonds or other obligations or securities of the Trustee or any body corporate formed or to be formed;
- (e) to assent to any modification of the provisions contained in the Security Trust Deed which may be proposed by the Trustee, the Manager or the Security Trustee;
- (f) to give any authority, direction, guidance or sanction sought by the Security Trustee from the Voting Chargees;
- (g) to appoint any persons (whether Voting Chargees or not) as a committee or committees to represent the interests of the Voting Chargees and to confer on such committee or committees any powers or discretions which the Voting

## CNH Capital Australia Receivables Trust

Chargees could themselves exercise by Extraordinary Resolution;

- (h) to remove the Security Trustee;
- (i) to approve a person proposed to be appointed as a new Security Trustee for the time being;
- (j) to discharge or exonerate the Security Trustee from any liability in respect of any act or omission for which it may become responsible under the Security Trust Deed;
- (k) to do any other thing which under the Security Trust Deed is required to be given by an Extraordinary Resolution;
- (l) to authorise the Security Trustee or any other person to concur in and execute and do all such documents, acts and things as may be necessary to carry out and give effect to any Extraordinary Resolution; or
- (m) to determine whether the Security Trustee should or should not perform an act.

The Security Trust Deed sets out detailed meeting procedures for Chargees, which procedures are generally similar to those for meetings of Noteholders under the Master Trust Deed.

In the absence of an Extraordinary Resolution of the Voting Chargees, the Security Trustee need not act but, if it does act, it must act (with prior written notice to the Chargees who are Noteholders) in the best interests of the Chargees. However, in any case, it does not have to act unless it obtains an indemnity from the Chargees (to the reasonable satisfaction of the Security Trustee), and is put in funds by them for the relevant enforcement actions.

## **CNH Capital Australia Receivables Trust**

### **10.3 Priorities Under the Security Trust Deed**

The proceeds from the enforcement of the charge are to be applied in the following order of priority, subject to any other priority which may be required by statute or law:

- (a) first, to the extent required by law, to pay the holder of any prior ranking security interest over Assets of the Trust of which the Security Trustee has notice the amount properly secured by the security interest;
- (b) second, to pay any unpaid Accrued Interest Adjustment due to the Approved Seller;
- (c) third, to pay (pari passu and rateably):
  - (i) all costs, charges, expenses and disbursements properly incurred in the exercise of any power by the Security Trustee, a receiver or an attorney or other amounts payable to the Security Trustee under the Security Trust Deed;
  - (ii) any fees and other expenses due to the Security Trustee; and
  - (iii) the receiver's remuneration;
- (d) fourth, to pay any unpaid Accrued Interest Adjustment due to the Approved Seller;
- (e) fifth, to pay (pari passu and rateably):
  - (i) all Secured Moneys owing to the Support Facility Providers (except in respect of any Enhancement);
  - (ii) all Secured Moneys owing to the Class A1 Noteholders; and
  - (iii) any amounts not covered above owing to any Chargee under any Transaction Document, other than the Class

## **CNH Capital Australia Receivables Trust**

A2 Noteholders, the Class B Noteholders, the Seller Noteholders and in respect of any Enhancement;

- (f) sixth, to pay all Secured Moneys owing to the Class A2 Noteholders;
- (g) seventh, to pay all Secured Moneys owing to the Class B Noteholders;
- (h) eighth, to pay all Secured Moneys owing to the Seller Noteholders;
- (i) ninth, to pay the holder of any subsequent security interest over Assets of the Trust of which the Security Trustee has notice the amount properly secured by the security interest; and
- (j) tenth, to pay any surplus to the Trustee to be distributed in accordance with the Master Trust Deed.

The surplus will not carry interest. If the Security Trustee pays the surplus to the credit of an account in the name of the Trustee with any bank carrying on business in Australia, the Security Trustee, receiver, Chargee or attorney (as the case may be) will be under no further liability in respect of it.

In applying any moneys towards satisfaction of the Secured Moneys under the Security Trust Deed, the Trustee will be credited only with the money available for that purpose which is actually received by the relevant Chargee. The credit will date from the time of receipt.

### **10.4 The Security Trustee**

The Security Trustee is appointed to act as trustee on behalf of the Chargees on the terms and conditions of the Security Trust Deed. It holds the benefit of the charge and the mortgaged property under the Security Trust Deed and the benefit of each of the Transaction Documents to which it is a party on trust for each Chargee in

## CNH Capital Australia Receivables Trust

accordance with the terms and conditions of the Security Trust Deed. The Security Trust Deed contains a range of provisions regulating the scope of the Security Trustee's duties and liabilities (including the protection of the Security Trustee from liability in certain circumstances).

If there is a conflict between a duty owed by the Security Trustee to any Chargee or class of Chargees, and a duty owed by it to another Chargee or class of Chargees, the Security Trustee must give priority to the interests of the Class A1 Noteholders and the Support Facility Providers other than the Support Facility Providers for Enhancement.

If there is a conflict between the interests of the Class A1 Noteholders, and/or the interests of the Class A2 Noteholders, and/or the interests of the Class B Noteholders, and/or the interests of the Seller Noteholders and/or the interests of the other Chargees, the Security Trustee must give priority to those interests in the following order:

- (i) first, the interest of the Class A1 Noteholders;
- (ii) second, the interests of the Class A2 Noteholders;
- (iii) third, the interests of the Class B Noteholders;
- (iv) fourth, the interest of the other Chargees; and
- (v) fifth, the interests of the Seller Noteholders.

The Security Trustee shall not incur any liability to any Chargee for giving effect to the preceding two paragraphs if it acts in good faith.

The Security Trustee makes no statement or representation in this Information Memorandum. It has not authorised or caused the issue of any part of it and takes no responsibility for any part of it. The Security Trustee does not guarantee the success of the Notes or the Seller Note nor the payment of principal or interest on the Notes or the Seller Note.

## **CNH Capital Australia Receivables Trust**

### **(a) Security Trustee's Fee and Expenses**

The Security Trustee will receive a quarterly fee based on the aggregate principal outstanding of the Purchased Receivables on the first day of that Collection Period, payable in arrears on the Relevant Payment Date. The Security Trustee's fee is inclusive of GST but is subject to adjustment to take into account any change in the rate of GST payable pursuant to the A New Tax System (Goods and Services Tax Imposition – General) Act 1999.

The Security Trustee will be reimbursed out of the Assets of the Trust for all expenses incurred in connection with the performance of its obligations in respect of the Trust (but not general overhead costs and expenses).

### **(b) Retirement and Removal of the Security Trustee**

The Security Trustee may retire on 3 months' notice in writing to the Trustee, the Manager and the Rating Agencies subject to:

- (i) any Transaction Document to which the Security Trustee is a party; and
- (ii) the appointment of a successor Security Trustee.

The Security Trustee may be removed by an Extraordinary Resolution of the Voting Chargees.

The Security Trustee may also be removed by the Manager if any of the following occurs:

- (i) an Insolvency Event occurs in relation to the Security Trustee in its personal capacity;
- (ii) the cessation by the Security Trustee of its business; or
- (iii) failure of the Security Trustee to comply with any of its obligations under any Transaction Document which has or will have a Material Adverse Effect, and if capable of remedy, that

## **CNH Capital Australia Receivables Trust**

failure is not remedied within 10 Business Days after the earlier of:

- (A) the date the Security Trustee becomes aware of such failure; or
- (B) the date the Security Trustee receives written notice of such failure from the Manager.

# CNH Capital Australia Receivables Trust

## 11. Selling Restrictions

### 11.1 General

By its purchase and acceptance of Notes issued under the Dealer Agreement, each Dealer agrees that it will observe all applicable laws and regulations in any jurisdiction in which it may offer, sell, or deliver Notes and it will not directly or indirectly offer, sell, resell, re-offer or deliver Notes or distribute any circular, advertisement or other offering material in any country or jurisdiction except under circumstances that will result, in compliance with all applicable laws and regulations.

If any Note is offered or sold outside Australia or to a Non-Resident, it will comply with any additional selling restrictions specified in the pricing supplement relating to an issue or offering of Notes in a particular jurisdiction outside Australia or to a Non-Resident.

### 11.2 Australia

Each Dealer must not:

- (a) make any offer or invitation in Australia or received in Australia in relation to the issue, sale or purchase of any Notes unless the offeree is required to pay at least A\$500,000 for the Notes (disregarding amounts, if any, lent by the Trustee or other person offering the Notes or its associates (as defined in a Division 2 of Part 1.2 of the Corporations Act)), or it is otherwise an offer or invitation for which no disclosure is required to be made by virtue of section 708 of the Corporations Act; or
- (b) circulate or issue a disclosure document in Australia or received in Australia which requires lodging under Division 5 of Part 6D.2 of the Corporations Act.

## **CNH Capital Australia Receivables Trust**

In addition, each Dealer agrees that it will not sell Notes to a person if, at the time of the sale, the relevant employee of the Dealer making the offer or effecting the sale knew or had reasonable grounds to suspect that the Notes, or an interest in the Notes, was being, or would later be, acquired either directly or indirectly by an associate of the Trustee within the meaning of section 128F of the Income Tax Assessment Act 1936.

### **11.3 Overseas**

Without limiting the subsequent provisions of this Section 7, each Dealer must not directly or indirectly offer, sell or deliver Notes or distribute any circular, advertisement or other offering material relating to the Notes in any jurisdiction (other than Australia) except in accordance with the terms and conditions of, and subject to, the Dealer Agreement and under circumstances that will result in compliance by the Dealer with the laws and regulations of that jurisdiction including any selling restrictions (if any) for overseas countries set out in this Information Memorandum.

### **11.4 United States of America**

The Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the “**Securities Act**”), and the Notes may not be offered or sold within the United States or to, or for the account or benefit of, US persons except as otherwise permitted by Regulation S under the Securities Act. Each Dealer agrees that (except as aforesaid) it has offered and sold, and will offer and sell, Notes only outside the United States to non-US persons in accordance with Rule 903 of Regulation S under the Securities Act. Accordingly, each Dealer agrees that neither it, nor any of its affiliates, nor any person acting on its or their behalf, has engaged or will engage in any directed selling efforts with respect to the Notes, and that it and they have complied and will comply with the offering

## **CNH Capital Australia Receivables Trust**

restriction requirements of Regulation S under the Securities Act. Each Dealer also agrees that, at or prior to confirmation of the sale of Notes, it will have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Notes from it a confirmation or notice to substantially the following effect:

"The securities covered hereby have not been registered under the United States Securities Act of 1933, as amended (the Securities Act) and may not be offered or sold within the United States or to, or for the account or benefit of, US persons. Terms used above have the meanings given to them by Regulation S."

Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

### **11.5 The United Kingdom**

Each Dealer agrees that:

- (a) in relation to Notes which have a maturity of 365 days or greater, it has not offered or sold and, prior to the expiry of the period of six months from the date of issue of such Notes, will not offer or sell any Notes to persons in the United Kingdom except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or otherwise in circumstances which have not resulted and will not result in an offer to the public in the United Kingdom within the meaning of the Public Offers of Securities Regulations 1995;
- (b) it has complied and will comply with all applicable provisions of the Financial Services and Markets Act 2000 with respect to anything done by it in relation to any Notes in, from or otherwise involving the United Kingdom; and

## **CNH Capital Australia Receivables Trust**

- (c) it has only communicated or caused to be communicated an invitation or inducement to engage in investment activity (within the meaning of section 11 of the Financial Services and Markets Act 2000) received by it in connection with the issue of the Notes in circumstances in which section 21(1) of the Financial Services and Markets Act 2000 does not apply to the Trustee.

### **11.6 New Zealand**

The Notes may not be offered or sold, nor may any offering memorandum or advertisement in relation to any offer of Notes be distributed, in New Zealand other than:

- (a) to persons whose principal business is the investment of money or who, in the course of and for the purposes of their business, habitually invest money, or who in all the circumstances can properly be regarded as having been selected otherwise than as members of the public; or
- (b) in other circumstances where there is no contravention of the Securities Act 1978 of New Zealand.

### **11.7 Japan**

The Notes have not been and will not be registered under the Securities and Exchange Law of Japan (the Securities and Exchange Law). Each Dealer has agreed, and each further Dealer appointed under the Transaction will be required to agree, that it will not offer or sell any Notes, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organised under the laws of Japan) or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and

## **CNH Capital Australia Receivables Trust**

otherwise in compliance with, the Securities and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

### **11.8 Hong Kong**

- (a) Notes are not to be offered for sale in Hong Kong by any document except:
  - (i) to persons whose ordinary business it is to buy or sell shares or debentures (whether as principal or agent); or
  - (ii) in other circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap.32) of Hong Kong.
- (b) No invitation or advertisement relating to the Notes (or document containing an invitation or advertisement) may be issued in or from Hong Kong other than with respect to Notes to be disposed of to persons outside Hong Kong or to be disposed of in Hong Kong only to persons whose business involves the acquisition, disposal or holding of securities, whether as principal or agent.

### **11.9 Singapore**

The Notes are not to be offered or sold, nor may any document or other material in connection with the Notes be distributed, either directly or indirectly:

- (a) to persons in Singapore other than under circumstances in which the offer or sale does not constitute an offer or sale of the Notes to the public in Singapore; or
- (b) to the public or any member of the public in Singapore other than under, and in accordance with the conditions of, an exemption invoked under Division 5A of Part IV of the

## **CNH Capital Australia Receivables Trust**

Companies Act (Chapter 50) of Singapore and to persons to whom the Notes may be offered or sold under that exemption.

# **CNH Capital Australia Receivables Trust**

## **12. Taxation Considerations**

### **12.1 Taxation Considerations**

Set out below is a summary of the material Australian tax consequences for Noteholders in respect of the purchase, ownership and disposal of the Notes. The summary assumes Noteholders purchased the Notes upon issue, for the stated offering price and hold the Notes as capital assets.

The summary is not exhaustive and does not deal with the position of all classes of Noteholders. Each prospective investor should consult his or her own tax advisers concerning the tax consequences, in their particular circumstances, of the purchase, ownership and disposal of the Notes.

The statements made in this summary represent the opinion of the Trustee on the basis of Australian law in effect on the Preparation Date.

### **12.2 The Trustee**

The Trust is an Australian resident trust and will be subject to Australian tax law.

### **12.3 The Noteholders**

The Noteholders will derive interest income from their Notes. Under the terms of the Notes the interest income will be payable quarterly. Australian resident Noteholders, and non-resident Noteholders who hold the Notes through a permanent establishment in Australia, will be assessable on the interest income for Australian tax purposes.

There may also be income or capital gains tax consequences in respect of any gains or profits made on the disposal of the Notes. However, a Noteholder who is not an Australian resident, and who

## **CNH Capital Australia Receivables Trust**

does not carry on business through a permanent establishment in Australia, will ordinarily not be subject to Australian income or capital gains tax on any gains or profits made on the disposal of the Notes, provided that such gains or profits do not have an Australian source. A gain arising on the sale of the Notes by a non-Australian resident holder, where the sale and all negotiations for and documentation of the sale are conducted and executed outside Australia, would not usually be regarded as having an Australian source.

### **12.4 Withholding Taxes**

#### **(a) Australian resident Noteholders**

The Trustee may need to withhold tax under the PAYG regime where interest is paid to a Noteholder who does not provide the Trustee, by the time the Trustee makes the payment, with either:

- (i) a tax file number (*TFN*);
- (ii) an Australian Business Number; or
- (iii) proof of an exemption from the need to provide a TFN.

Withholding tax in such cases is ordinarily at the rate of 48.5% of the payment.

This requirement will not apply to payments made by the Trustee if the supplies in question are wholly input taxed for GST purposes (for example, financial supplies). Payments in respect of the Notes would usually be input taxed so that no withholding would generally be required.

#### **(b) Non-Australian resident Noteholders**

Where:

- (i) a Noteholder entitled to receive a payment of interest from the Trustee has an address outside Australia

## **CNH Capital Australia Receivables Trust**

according to any record held by, or on behalf of, the Trustee in relation to the Notes; or

- (ii) the Trustee is authorised to pay the interest at a place outside Australia (whether to the Noteholder or anyone else),

the Trustee will ordinarily be obliged to deduct interest withholding tax at the rate of 10% from that payment. However, this will not be the case where interest paid on the Notes is exempt from interest withholding tax, including where the Notes are issued in a way which satisfies the requirements of section 128F of the Income Tax Assessment Act 1936.

### **12.5 Thin Capitalisation**

Although the Treasurer has announced that entities such as the Trustee should be excepted from the thin capitalisation rules, this will not be the case under the legislation as it is currently drafted. (This issue is the subject of a submission to Treasury). It may, however, be possible for the Trust to satisfy the arm's length debt test under the thin capitalisation rules.

Even if the rules did apply, on the basis that the Residuary Income Unit Holder of the Trust is presently entitled to the income of the Trust, any resultant tax liability will be met by the Residuary Income Unit Holder and, therefore, should not adversely affect the ability of the Trustee to pay principal and interest on the Notes.

### **12.6 Goods and Services Tax**

As of 1 July 2000, Goods and Services Tax (**GST**) is payable on all taxable supplies equal to 10% of the total consideration received for the supply.

## CNH Capital Australia Receivables Trust

The issue of the Notes to overseas investors by the Trustee should be considered a GST-free supply. As such, the Trustee will not pay GST on the supply of the Notes and will be able to obtain input tax credits for GST paid on supplies to the Trustee to the extent they relate to the issue of those Notes.

The issue of the Notes to Australian investors by the Trustee should be considered an input-taxed supply. As such, the Trustee will not pay GST on the supply of the Notes but will not be able to obtain input tax credits for GST paid on supplies to the Trustee to the extent they relate to the issue of those Notes, unless the Trustee is specifically entitled to a reduced input tax credit (**RITC**). A RITC is 75% of the credit that would be allowed if the acquisition was a fully creditable acquisition.

### 12.7 Other Taxes

Under current Australian law, there are no gift, estate or other inheritance taxes or duties. No ad valorem stamp duties or similar taxes (other than debits tax on debits to certain bank and other accounts in Australia) should be payable by Noteholders on a transfer of any Notes except, under certain circumstances, nominal duty in the Northern Territory.

#### (a) Proposed Tax Consolidation Rules

On 16 May 2002, the Federal Government introduced the New Business Tax System (Consolidation) Bill (No 1) 2002 into the Parliament. In addition, on 27 June 2002, a further bill was introduced: the New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Bill 2002 (together, the **Consolidation Bills**). If enacted, the Consolidation Bills will implement a new tax consolidation regime. The Consolidation Bills contain many of the key elements of the new regime, although substantial elements are yet to be drafted. It is intended that the

## **CNH Capital Australia Receivables Trust**

Consolidation Bills will be supplemented by one or more further bills to be introduced at a later stage. The following comments assume that the new regime will be implemented as proposed in the Consolidation Bills and accompanying explanatory memoranda.

The 'head company' of a consolidatable group may elect for the group to consolidate under the new regime from 1 July 2002 and be taxed as a single entity so that transactions between members of the consolidated group are ignored for tax purposes. Making an election to consolidate is optional. However, it has been announced that the existing tax concessions for transactions between members of the same wholly owned group, including loss transfers and asset roll-overs, will be repealed from 1 July 2003 (or, for consolidated groups with a 'head company' with a substituted accounting period, from the start of the company's tax year commencing after 1 July 2003 provided that the company elects to consolidate from the beginning of that tax year).

A consolidatable group consists of a 'head company' and all of its wholly owned subsidiaries including trusts (provided that all members are 100% wholly owned by the head company). A consequence of the 'head company' making an election to consolidate is that all eligible members of a consolidatable group (including wholly owned trusts) will be included in the consolidated group. That is, it is not possible to elect to leave certain wholly owned entities outside the consolidated group.

The Trust will not qualify as a wholly owned subsidiary of a head company as all of the units in the Trust will not be owned, directly or indirectly, by a single holding company. Specifically, the Residuary Capital Unit will be held by an entity which is not related to any consolidatable group of which the Residuary Income Unit Holder may be a member. Accordingly, the Trust cannot be a member of a

## **CNH Capital Australia Receivables Trust**

consolidatable group for the purposes of the consolidation measures set out in the Consolidation Bills.

### **12.8 Entity Taxation Proposal**

Based on Australian tax law and the rulings and approach of the Commissioner in force as at the Preparation Date, and subject to certain assumptions regarding the operation of the Trust, the structure of the Trust is such that the Trust will not be liable for any Australian income tax. In October 2000 the Federal Government released an exposure draft of legislation providing for the taxation of trusts as companies. The Federal Government subsequently withdrew this exposure draft legislation on 27 February 2001 and announced it would begin a new round of consultations with interested parties on "principles which can address any tax abuse in the trust area". The Federal Government has not indicated the likely approach to be adopted in this regard, nor the date from which any new law will apply.

The Trustee is not in a position to make any assessment of the impact of changes to Australian tax law made after the Preparation Date.

## CNH Capital Australia Receivables Trust

### 13. Transaction Documents

The following documents relating to the Trust, the Notes and the Seller Note (the “**Transaction Documents**”) will be available for inspection by the persons intending to acquire Notes during the ordinary business hours at the offices of the Manager at 31-67 Kurrajong Avenue, St Marys, New South Wales 2760 and the offices of the Arranger at Level 21, 400 George Street, Sydney, New South Wales, 2000. However, any person wishing to inspect these documents must first undertake not to disclose the contents of the documents without the prior written consent of the Manager and the Arranger. Persons intending to acquire Notes are not entitled to a copy of any of the Transaction Documents.

- (a) Master Trust Deed dated 7 June 2001 between Perpetual Trustee Company Limited and CNH Capital.
- (b) Notice of Creation of Trust in relation to the Trust dated 7 June 2001.
- (c) Series Notice dated 8 June 2001 between Perpetual Trustee Company Limited, CNH Capital, NHC and P.T. Limited (as amended by a first amending deed dated 7 September 2001, a second amending deed dated 7 March 2002 and a third amendment deed dated 26 August 2002).
- (d) Security Trust Deed dated 7 June 2001 between Perpetual Trustee Company Limited, P.T. Limited and CNH Capital.
- (e) Amendment Deed to Security Trust Deed dated 26 August 2002 between Perpetual Trustee Company Limited, P.T. Limited and CNH Capital.
- (f) Custodian Agreement dated 8 June 2001 between Perpetual Trustee Company Limited, CNH Capital and P.T. Limited (as

## CNH Capital Australia Receivables Trust

amended by an amendment agreement dated 26 August 2002).

- (g) Seller Power of Attorney dated 8 June 2001 from CNH Capital (as amended by an amendment deed dated 26 August 2002).
- (h) Novation Agreement dated 7 September 2001 between SG Australia Limited, CNH Capital and Perpetual Trustee Company Limited (as amended by an amendment agreement dated 26 August 2002).
- (i) ISDA Master Agreement dated 7 September 2001 between CNH Capital, Perpetual Trustee Company Limited and SG Australia Limited (as amended by a schedule and a confirmation) (the “**First Master Agreement**”).
- (j) ISDA Master Agreement dated 8 June 2001 between SG Australia Limited, Perpetual Trustee Company Limited and CNH Capital (as amended by a schedule and confirmation) (the “**Second Master Agreement**”).
- (k) Performance Guarantee dated 8 June 2001 from IHF-Internazionale Holding Fiat S.A. (together with the letter dated 23 August 2002 issued by IHF-Internazionale Holding Fiat S.A. to the Perpetual Trustee Company Limited in relation to the Performance Guarantee).
- (l) Deed of Accession dated 26 August 2002 between NHC, CNH Capital, Perpetual Trustee Company Limited and P.T. Limited.
- (m) Dealer Agreement deed 26 August 2002 between SG Australia Limited, Salomon Smith Barney Australia Securities Pty Limited, CNH Capital and Perpetual Trustee Company Limited.

## CNH Capital Australia Receivables Trust

### 14. Glossary Of Terms

<b>Annualised Rolling Average Charge-Off Percentage</b>	At any time the rolling 12 month average of the Charge Offs expressed as a percentage of the aggregate principal outstanding of all Purchased Receivables at that time.
<b>Approved Bank</b>	A bank who has the Designated Rating.
<b>Approved Seller</b>	See Section 1.1(b).
<b>Arranger</b>	See Section 1.1(b).
<b>Asset</b>	In relation to the Trust means the assets forming the Trust from time to time, including any Receivable and Receivable Rights acquired by the Trustee, Authorised Investments, amounts owing to the Trustee by debtors and income accrued from Authorised Investments.
<b>Auditor</b>	The auditor of the Trust appointed from time to time.
<b>Austraclear</b>	Austraclear Limited or Austraclear Services Limited (including, where applicable, the computer based system for holding the Notes and/or the Seller Notes and recording and settling transactions in those Notes and/or those Seller Notes between the members of that system maintained by Austraclear Services Limited).
<b>Authorised</b>	In respect of the Trust, any investments

## CNH Capital Australia Receivables Trust

### Investments

which at their date of acquisition are of the following types:

- (a) Receivables, Receivable Securities and Receivable Rights;
- (b) money Standing to the credit of any Collection Account;
- (c) cash on hand;
- (d) bonds, debentures, stock, notes, treasury bills or other securities of any government of an Australian jurisdiction;
- (e) debentures or stock of any public statutory body constituted under the law of any Australian jurisdiction where the repayment of the principal secured and the interest payable thereon is guaranteed by the Australian jurisdiction;
- (f) deposits with, or the acquisition of certificates of deposit (whether negotiable, convertible or otherwise), issued by, an Approved Bank;
- (g) bills of exchange accepted or endorsed by an Approved Bank which at the time of acquisition have a remaining term to maturity of not more than 200 days;
- (h) securities which are “mortgage-backed securities”, within the meaning of the stamp duty legislation

## CNH Capital Australia Receivables Trust

of any Australian jurisdiction, subject to prior written confirmation from the Rating Agencies that such an acquisition will not give rise to a Rating Downgrade Event; and

- (i) any other assets or a class of assets that are within the definition of a “pool of mortgages” in the stamp duty legislation of any Australian jurisdiction;

Each of the instruments in paragraphs (d), (e) and (h) must have a rating of AAA (long term) or A-1+ (short term) (as the case may be) from S&P and a rating of Aaa (long term) or P-1 (short term) (as the case may be) from Moody's to be an Authorised Investment for the Trust.

**Available Income**

See Section 7.3.

**Back-Up Swap  
Provider**

See Section 1.1(b).

**Bank Bill Rate**

On any date means the rate calculated by taking the rates quoted on the Reuters Screen BBSW Page at approximately 10am Sydney time, on that date for each BBSW Reference Bank so quoting (but not fewer than 5) as being the mean buying and selling rate for a bill (which for the purpose of this definition means a bill of exchange of the type specified for the purpose of quoting on the Reuters Screen BBSW Page) having a tenor most closely

## CNH Capital Australia Receivables Trust

approximately the number of days in the relevant Interest Period eliminating the highest and lowest mean rates and taking the average of the remaining mean rates and then (if necessary) rounding the resultant figure upwards to 4 decimal places. If on that date fewer than five BBSW Reference Banks have quoted rates on the Reuters Screen BBSW Page, the rate for that date shall be calculated as above by taking the rates otherwise quoted by 5 of the BBSW Reference Banks on application by the parties for such a bill of the same tenor. If in respect of that date the rate cannot be determined in accordance with the foregoing procedures then the rate for that date shall mean such rate as is agreed between the Manager and the Lead Manager having regard to comparable indices then available.

<b>BBSW Reference Bank</b>	Any financial institution authorised to quote on the Reuters Screen BBSW Page.
<b>Business Day</b>	Any weekday on which banks are open for business in Sydney.
<b>Cashflow Allocation Methodology</b>	See Section 7.
<b>Cash Reserve</b>	At any time, the balance in the Cash Reserve Account at that time.
<b>Cash Reserve Account</b>	See Section 8.1.

## **CNH Capital Australia Receivables Trust**

<b>Charge Off</b>	On any Determination Date, the amount equal to the aggregate of: <ul style="list-style-type: none"><li>(a) the aggregate principal outstanding and accrued (but unpaid) interest of all Purchased Receivables which become Defaulted Receivables during the immediately preceding Collection Period; and</li><li>(b) the aggregate of all break costs in respect of partially unwinding the Swap in respect of those Defaulted Receivables.</li></ul>
<b>CNH Capital</b>	CNH Capital Australia Pty Limited (formerly known as Case Credit Australia Pty Ltd).
<b>CNH Global</b>	CNH Global N.V.
<b>Chargees</b>	See Section 10.1.
<b>Class</b>	In relation to Notes means Notes having as amongst themselves the same rights or restrictions with regard to the payment of interest, the repayment of principal, voting or otherwise.
<b>Class A1 Note</b>	A Note issued as a Class A1 Note by the Trustee with the characteristics of a Class A1 Note under the Series Notice.
<b>Class A1 Noteholder</b>	A Noteholder of a Class A1 Note.
<b>Class A1 Principal Amount</b>	A payment to the Class A1 Noteholders under Section 7.7(c).

## CNH Capital Australia Receivables Trust

<b>Class A1 Stated Amount</b>	<p>On any date in relation to a Class A1 Note, an amount equal to:</p> <ul style="list-style-type: none"><li>(a) the Invested Amount of that Class A1 Note on that date; less</li><li>(b) the amount (if any) by which:<ul style="list-style-type: none"><li>(i) the aggregate Charge Offs to that date to the extent not previously reinstated; exceeds</li><li>(ii) the aggregate Invested Amount of the Class A2 Notes, the Class B Notes and the Seller Notes on the dates they were issued and the Cash Reserve on that date.</li></ul></li></ul> <p>If the amount is negative, it shall be treated as zero.</p>
<b>Class A2 Note</b>	<p>A Note issued as a Class A2 Note by the Trustee with the characteristics of a Class A2 Note under the Series Notice.</p>
<b>Class A2 Noteholder</b>	<p>A Noteholder of a Class A2 Note.</p>
<b>Class A2 Principal Payment</b>	<p>A payment to the Class A2 Noteholders under Section 7.7(c).</p>
<b>Class A2 Stated Amount</b>	<p>On any date in relation to a Class A2 Note, an amount equal to:</p> <ul style="list-style-type: none"><li>(a) the Invested Amount of that Class A2 Note on that date; less</li><li>(b) the amount (if any) by which:</li></ul>

## CNH Capital Australia Receivables Trust

- (i) the aggregate Charge Offs to that date to the extent not previously reinstated; exceeds
- (ii) the aggregate Invested Amount of the Class B Notes and the Seller Notes on the dates they were issued and the Cash Reserve on that date.

If the amount is negative, it shall be treated as zero.

**Class B Note**

A Note issued as a Class B Note by the Trustee with the characteristics of a Class B Note under the Series Notice.

**Class B Noteholder**

A Noteholder of a Class B Note.

**Class B Principal Payment**

A payment to the Class B Noteholders under Section 7.7(c).

**Class B Stated Amount**

On any date in relation to a Class B Note, an amount equal to:

- (a) the Invested Amount of that Class B Note on that date; less
- (b) the amount (if any) by which:
  - (i) the aggregate Charge Offs to that date to the extent not previously reinstated; exceeds
  - (ii) the aggregate Invested Amount of the Seller Notes

## CNH Capital Australia Receivables Trust

on the dates they were issued and the Cash Reserve on that date.

If the amount is negative, it shall be treated as zero.

### **Clean Up Call**

See Sections 1.1(c) and 2.4.

### **Co-Manager**

See Section 1.1(b).

### **Collections**

For a Collection Period, all Income Collections and Principal Collections received during that Collection Period by the Trustee in respect of the Receivable Rights for each Purchased Receivable, less:

- (a) the government charges (bank accounts debit tax, hiring duty or similar taxes) collected by or on behalf of the Trustee for that Collection Period;
- (b) all bank fees and charges due to the Approved Bank with which the Collection Account is held; and
- (c) all bank fees and charges due to the Servicer or an Approved Seller as agreed by them and consented to by the Trustee (that consent not to be unreasonably withheld) from time to time and collected by that Approved Seller or the Servicer during that Collection Period (other than any interest, monthly loan

## CNH Capital Australia Receivables Trust

administration fee or early discharge fee charged by the Servicer in relation to the Purchased Receivables).

<b>Collection Account</b>	An account opened and maintained by the Trustee with an Approved Bank in accordance with the Master Trust Deed and into which Collections can be paid.
<b>Collection Period</b>	In relation to a Payment Date, the period from (and including) the first day of the Quarter immediately preceding the Quarter in which the Payment Date occurs to (but excluding) the first day of the calendar month in which the Payment Date occurs. The first Collection Period is the period from (but excluding) 12 September 2002 to (but excluding) 1 December 2002. The last Collection Period is the period from (but excluding) the last day of the previous Collection Period to (and including) the Termination Date of the Trust.
<b>Collections Transfer Amount</b>	On a Remittance Date, the amount equal to 10% of the aggregate principal outstanding of all Purchased Receivables as at the last day of the immediately preceding Collection Period.
<b>Custodial Procedures</b>	See Section 9.5.
<b>Custodian</b>	See Section 1.1(b).
<b>Custodian Agreement</b>	See Section 13.

## CNH Capital Australia Receivables Trust

<b>Custodian's Fee</b>	See Section 9.5(a).
<b>Custody Transfer Event</b>	See Section 9.5(b).
<b>Cut-Off Date</b>	In respect of Receivables and the related Receivable Rights to be acquired under a Sale Notice, has the meaning given in that Sale Notice.
<b>Dealer</b>	See Section 1.1(b).
<b>Dealer Agreement</b>	See Section 13.
<b>Deed of Accession</b>	See Sections 1.2(b) and 13.
<b>Default</b>	<p>Any wilful breach by the Trustee of any of its obligations under the Master Trust Deed or any other Transaction Document, other than a breach which:</p> <ul style="list-style-type: none"><li>(a) arises as a result of a breach of a Transaction Document by a person other than the Trustee or any officer, employee, agent or delegate of the Trustee;</li><li>(b) is in accordance with a lawful court order or direction or is required by law; or</li><li>(c) arises, as a result of the Trustee acting in accordance with any proper instruction or direction of Noteholders or Seller Noteholder of the Trust at a meeting convened in accordance with the Master Trust Deed.</li></ul>

## CNH Capital Australia Receivables Trust

<b>Defaulted Receivable</b>	<p>A Purchased Receivable which:</p> <ul style="list-style-type: none"><li>(a) the Servicer has written off in accordance with the Guidelines; or</li><li>(b) the Servicer should have written off in accordance with the Guidelines; or</li><li>(c) has any scheduled payment that is more than 180 days overdue,</li></ul> <p>and that Purchased Receivable will be considered a Defaulted Receivable on the earliest occurrence of any of the events or matter in paragraphs (a), (b) and (c).</p>
<b>Designated Rating</b>	<p>In relation to an Approved Bank, a rating of not less than:</p> <ul style="list-style-type: none"><li>(a) A-1+ from S&amp;P; and</li><li>(b) P-1 from Moody's.</li></ul>
<b>Determination Date</b>	<p>Three Business Days prior to a Payment Date.</p>
<b>Eligibility Criteria</b>	<p>See Section 4.1.</p>
<b>Eligible Receivable</b>	<p>A Receivable which meets the Eligibility Criteria for that Receivable.</p>
<b>Eligible Servicer</b>	<p>Any suitably qualified person whose appointment as a Servicer under the Master Trust Deed will not give rise to a Rating Downgrade Event (as confirmed in writing by the Rating Agencies).</p>
<b>Enhancement</b>	<p>Any policy of insurance, security, support, rights or benefits in support of or</p>

## CNH Capital Australia Receivables Trust

	substitution for a Receivable or Receivable Security or other Authorised Investment or the income or benefit arising thereon.
<b>Excess Available Income</b>	See Section 7.6(a).
<b>Expenses</b>	In relation to the Trust means all costs, charges and expenses incurred by the Trustee or the Manager in the administration and operation of the Trust.
<b>Extraordinary Resolution</b>	<p>In relation to the Noteholders or the Seller Noteholders of the Trust or any Class, subject to the provisions of the Security Trust Deed in respect of the Trust:</p> <p>(a) a resolution passed at a meeting of the Noteholders or the Seller Noteholders of the Trust or Class (as the case may be) duly convened and held in accordance with the Master Trust Deed by a majority consisting of not less than 75% of the votes able to be cast; or</p> <p>(b) a resolution in writing signed by all the Noteholders or the Seller Noteholders of the Trust or Class in accordance with the Master Trust Deed.</p>
<b>Fair Market Value</b>	In relation to a Purchased Receivable and the related Receivable Rights, the fair market value of that Purchased Receivable and those Receivable Rights agreed between the Trustee (acting on

## **CNH Capital Australia Receivables Trust**

appropriate expert advice) and the Approved Seller, or in the absence of such agreement as determined by the Auditor.

The fair market value must reflect the status of that Purchased Receivable as a performing or non-performing Receivable (as determined by the Servicer) and any benefit in respect of that Purchased Receivable which the intended purchaser will have under any relevant Support Facility.

### **Final Maturity Date**

See Section 1.1(c) and 2.13.

### **Financed Property**

In relation to a finance lease, it means the property that is leased to the Obligor. In relation to a Receivable that is a commercial hire purchase agreement, it means the property that is subject to the hire purchase arrangement with the Obligor.

### **First Master Agreement**

See Section 13.

### **Future Agreement**

The agreement formed between CNH Capital or NHC (as the case may be) and the Trustee if the Trustee accepts a Sale Notice given by CNH Capital or NHC (as the case may be).

### **GST**

GST means any goods and services tax, broad based consumption tax or value added tax imposed by any government agency and includes any goods and

## CNH Capital Australia Receivables Trust

	services tax payable under the A New Tax System (Goods and Services Tax) Act 1999.
<b>Guidelines</b>	Includes the Servicer's Operational Manual and such other guidelines for the servicing of the Purchased Receivables and the Purchased Receivable Securities, as agreed between the Servicer and the Manager.
<b>Income Collections</b>	See Section 7.3(b).
<b>Income Shortfall</b>	See Sections 1.2(e) and 7.4.
<b>Initial GST Refund</b>	In relation to a Purchased Receivable, the amount paid by the Australian Taxation Office to the Trustee by way of GST refund that relates to the acquisition by the Trustee of the relevant Financed Property.
<b>Initial Invested Amount</b>	See Section 1.1(c).
<b>Insolvency Event</b>	<p>In relation to the Trustee (in its personal capacity and as trustee of the Trust), the Manager, the Custodian, the Approved Seller, the Security Trustee or the Servicer, (each a "<b>relevant corporation</b>") means the happening of any of the following events:</p> <ul style="list-style-type: none"><li>(a) except for the purpose of a solvent reconstruction or amalgamation:<ul style="list-style-type: none"><li>(i) an application or an order is made, proceedings are commenced, a resolution is</li></ul></li></ul>

## CNH Capital Australia Receivables Trust

passed or proposed in a notice of meeting or an application to a court or other steps (other than frivolous or vexatious applications, proceedings, notices and steps) are taken for:

- (A) the winding up, dissolution or administration of the relevant corporation; or
- (B) the relevant corporation entering into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them;

and is not dismissed, ceased or withdrawn within 10 Business Days; or

- (ii) the relevant corporation ceases, suspends or threatens to cease or suspend the conduct of all or substantially all of its business or disposes of or threatens to dispose of substantially all of its assets; or
- (b) the relevant corporation is, or under applicable legislation is taken to be, unable to pay its debts (other than as the result of a failure to pay a

## CNH Capital Australia Receivables Trust

debt or claim the subject of a good faith dispute) or stops or suspends or threatens to stop or suspend payment of all or a class of its debts (except, in the case of the Trustee where this occurs in relation to another trust of which it is the trustee);

- (c) a receiver, receiver and manager or administrator is appointed (by the relevant corporation or by any other person) to all or substantially all of the assets and undertaking of the relevant corporation or any part thereof (except, in the case of the Trustee where this occurs in relation to another trust of which it is the trustee); or
- (d) anything analogous to an event referred to in paragraphs (a) to (c) (inclusive) or having substantially similar effects occurs with respect to the relevant corporation.

<b>Interest</b>	See Section 2.2.
<b>Interest Payments</b>	See Sections 1.1(c), 2.2(d) and 2.5.
<b>Interest Period</b>	See Sections 1.1(c) and 2.2(b).
<b>Interest Rate</b>	See Section 2.2(c).
<b>Invested Amount</b>	Of a Note or the Seller Note on any date, the Initial Invested Amount of that Note or the Seller Note minus the aggregate of

## CNH Capital Australia Receivables Trust

	Principal Payments made in respect of that Note or the Seller Note on or before that date.
<b>Issue Amount</b>	Of a Class of Notes or of the Seller Note, means the aggregate principal amount issued by the Trustee as that Class of Notes or as the Seller Note.
<b>Lead Manager</b>	See Section 1.1(b).
<b>Manager</b>	See Section 1.1(b).
<b>Manager's Default</b>	See Section 9.3(c).
<b>Manager's Fee</b>	See Section 9.3(b).
<b>Margin</b>	See Sections 1.1(c) and 2.2(c).
<b>Master Trust Deed</b>	See Section 13.
<b>Material Adverse Effect</b>	An event which will materially and adversely affect the amount of any payment to be made to any Noteholder or the Seller Noteholder, or will materially and adversely affect the timing of such payment.
<b>Moody's</b>	Moody's Investor Services Inc or Moody's Investor Services Pty Limited.
<b>Net Swap Settlement</b>	For a Collection Period, the amount payable or received (as the context requires) by or on behalf of a party to a Swap in respect of that Collection Period with respect to net receipts under that Swap.
<b>NHC</b>	New Holland Credit Australia Pty Limited
<b>Non-Resident</b>	See "Important Notice".

## CNH Capital Australia Receivables Trust

<b>Note</b>	See Sections 1.1(a) and 1.1(c).
<b>Noteholder</b>	At any time the person then appearing in the Register as the holder of a Note.
<b>Note Issue Date</b>	See Sections 1.1(c) and 2.13.
<b>Novation Agreement</b>	See Section 13.
<b>Obligor</b>	In relation to a Receivable, the person obliged to make payments under it, whether as a principal or secondary obligation and includes where the context requires, any other person obligated to make payments with respect to that Receivable (including any guarantor or other provider of Receivable Security).
<b>Offer Material</b>	means any offering circular, memorandum, prospectus (as defined in the Corporations Act), advertisement, publication, document, material or statement (oral or written) relating to the marketing, issue or sale of the Notes but does not include the Information Memorandum.
<b>Payment Date</b>	See Sections 1.1(c) and 2.13.
<b>Payment Shortfall</b>	See Sections 1.2(e) and 7.4.
<b>Performance Guarantor</b>	See Section 1.1(b).
<b>Pool</b>	All Purchased Receivables, originated by CNH Capital or NHC (as the case may be) and equitable title to which are held by the Trustee as trustee of the Trust from time to

## CNH Capital Australia Receivables Trust

	time, the details of which are set out in Section 4.2.
<b>Preparation Date</b>	See “Important Notice”.
<b>Pricing Date</b>	See Sections 1.1(c) and 2.13.
<b>Principal Collections</b>	See Section 7.7(a).
<b>Principal Draw</b>	See Sections 1.2(e) and 7.4.
<b>Principal Payment</b>	See Section 2.3(a), being a Class A1 Principal Payment, a Class A2 Principal Payment, a Class B Principal Payment or a Seller Principal Payment.
<b>Purchased Receivable</b>	A Receivable which meets the Eligibility Criteria and acquired by the Trust.
<b>Purchased Receivable Security</b>	Each Receivable Security relating to a Purchased Receivable.
<b>Quarter</b>	Each 3 month period in a year which period begins on 1 March, 1 June, 1 September or 1 December.
<b>Rating Agency</b>	(a) Standard & Poor’s (Australia) Pty Limited; or (b) Moody’s Investor Services Inc or Moody’s Investor Services Pty Limited.
<b>Rating Downgrade Event</b>	An event that causes the credit rating of the Notes to be downgraded or withdrawn.
<b>Receivable</b>	A right or interest under or in relation to finance lease, commercial hire purchase agreement or goods mortgage.
<b>Receivable Agreement</b>	In relation to a Receivable, any agreement

## **CNH Capital Australia Receivables Trust**

	entered into between an Obligor and CNH Capital or NHC (as the case may be) under which that Obligor incurs obligations to CNH Capital or NHC (as the case may be) with respect to that Receivable and in the form referred to in Section 4.1(x).
<b>Receivable Right</b>	Includes all of the Approved Seller's, NHC's or the Trustee's (as the case may be) right, title, benefit and interest (both present and future), in, to, under or derived from the Receivables, the Receivable Securities and the related Financed Property.
<b>Receivable Security</b>	In relation to any Receivable, any guarantee, indemnity or security interest granted or security interest granted in respect of or in connection with that Receivable.
<b>Recovery</b>	Any amount received by or on behalf of the Trustee under or in respect of a Purchased Receivable and the related Receivable Rights at any time after that Purchased Receivable has become a Defaulted Receivable.
<b>Register</b>	See Section 2.6.
<b>Registrar</b>	See Section 1.1(b).
<b>Registration Certificate</b>	See Section 2.7.
<b>Relevant Documents</b>	See Section 9.5.
<b>Remittance Date</b>	Two Business Days prior to a Payment

## CNH Capital Australia Receivables Trust

	Date.
<b>Required Payments</b>	For any Collection Period, all amounts to be paid by the Trustee under Section 7.5(b) on the Payment Date following that Collection Period.
<b>Residual Capital Unit Holder</b>	The holder of a unit representing an interest as beneficiary of the Trust and which entitles that holder to receive on termination of the Trust the amount paid as the issue price for that unit. Other than the right to receive the issue price of that unit on termination of the Trust, the Residual Capital Unit Holder has no right to receive distributions in respect of the Trust.
<b>Residual Income Unit Holder</b>	<p>The holder of a unit representing an interest as beneficiary of the Trust and which entitles that holder to receive:</p> <ul style="list-style-type: none"><li>(a) distributions in respect of the Trust under the Master Trust Deed and the Series Notice to the extent that the Excess Distributions are available for distribution under the Master Trust Deed and the Series Notice; and</li><li>(b) on termination of the Trust the entire beneficial interest of the Trust subject to the rights of the Residual Capital Unit Holder.</li></ul> <p>Other than the right to receive</p>

## CNH Capital Australia Receivables Trust

	distributions as set out in paragraphs (a) and (b), the Residual Income Unit Holder has no right to receive distributions in respect of the Trust.
<b>Sale Notice</b>	A Sale Notice containing an offer from CNH Capital or NHC relating to the sale or transfer of Receivables and the related Receivable Rights to the Trustee.
<b>Second Master Agreement</b>	See Section 13.
<b>Secured Moneys</b>	All money which the Trustee (whether alone or with another person) is or at any time may become actually or contingently liable to pay to or for the account of any Chargee for any reason whatever under or in connection with a Transaction Document.
<b>Security Trustee</b>	See Section 1.1(b).
<b>Security Trust Deed</b>	See Section 13.
<b>Security Trustee's Fee</b>	See Section 10.4(a).
<b>Seller Note</b>	A Note issued as a Seller Note by the Trustee with the characteristics of a Seller Note under the Series Notice.
<b>Seller Noteholder</b>	A Noteholder of a Seller Note.
<b>Seller Power of Attorney</b>	See Section 13.
<b>Seller Principal Payment</b>	A payment to the Seller Noteholders under Section 7.7(c).
<b>Seller Stated Amount</b>	On any date in relation to a Seller Note,

## CNH Capital Australia Receivables Trust

an amount equal to:

- (a) the Invested Amount of that Seller Note on that date; less
- (b) the aggregate Charge Offs to that date to the extent not previously reinstated.

If the amount is negative, it shall be treated as zero.

<b>Series Notice</b>	See Sections 1.2(b) and 13
<b>Servicer</b>	See Section 1.1(b).
<b>Servicer's Fee</b>	See Section 9.4(b).
<b>Servicer Transfer Event</b>	See Section 9.4(c).
<b>Stated Amount</b>	Class A1 Stated Amount, Class A2 Stated Amount, Class B Stated Amount or Seller Stated Amount.
<b>Support Facility</b>	The Swaps and any other Support Facility as defined in the Transaction Documents.
<b>Support Facility Provider</b>	Any person who has entered into or agreed to make available a Support Facility to the Trustee in relation to the Trust.
<b>Swap</b>	See Section 8.3.
<b>Swap Provider</b>	See Section 1.1(b).
<b>S&amp;P</b>	Standard & Poor's (Australia) Pty Limited
<b>Termination Date</b>	See Section 9.6(a).
<b>Title Perfection Event</b>	See Section 9.8.

## CNH Capital Australia Receivables Trust

<b>Title Perfection Reserve</b>	See Section 8.5.
<b>Title Perfection Reserve Account</b>	See Section 8.5.
<b>Total Available Income</b>	See Section 7.5(a).
<b>Total Available Principal</b>	See Section 7.7(b).
<b>Transaction</b>	The agricultural and construction equipment finance lease, commercial hire purchase agreement and goods mortgage backed securitisation programme as established under the Transaction Documents.
<b>Transaction Documents</b>	See Section 13 and includes each Note, Seller Note, Sale Notice and Future Agreement.
<b>Transfer Form</b>	See Section 2.8.
<b>Trust</b>	See Sections 1.1(a) and 1.2(b).
<b>Trustee</b>	See Section 1.1(b).
<b>Trustee's Fee</b>	See Section 9.2(c).
<b>Trustee's Retirement Event</b>	See Section 9.2(d).
<b>Unit Holder</b>	In relation to the Trust means: (a) the Residual Capital Unit Holder; or (b) the Residual Income Unit Holder.
<b>Unpaid Balance</b>	In relation to any Purchased Receivable at any time, the sum of:

## CNH Capital Australia Receivables Trust

- (a) the unpaid principal amount of that Purchased Receivable; and
  - (b) the unpaid amount of all finance charges, interest payments and other amounts accrued on or payable under or in connection with that Purchased Receivable or the related Receivable Rights at that time.
- Voting Chargees**
- (a) Until all Secured Money is fully and finally paid or repaid to the Class A1 Noteholders, the Class A2 Noteholders and the Class B Noteholders, those Noteholders; or
  - (b) at any other time, each other Chargee (other than the Noteholders referred to in paragraph (a)).
- Warehouse Note** See Section 1.2(b).

## **DIRECTORY**

### **TRUSTEE**

Perpetual Trustee Company Limited  
Level 7, 9 Castlereagh Street  
SYDNEY NSW 2000

### **SECURITY TRUSTEE**

P.T. Limited  
Level 7, 9 Castlereagh Street  
SYDNEY NSW 2000

### **MANAGER, SERVICER, CUSTODIAN & APPROVED SELLER**

CNH Capital Australia Pty Limited  
31-67 Kurrajong Avenue  
ST MARYS NSW 2760

### **ARRANGER AND LEAD MANAGER**

SG Australia Limited  
Level 21, 400 George Street  
SYDNEY NSW 2000

### **CO-MANAGER**

Salomon Smith Barney Australia Securities Pty Limited  
Level 25, 2 Park Street  
SYDNEY NSW 2000

### **DEALERS**

SG Australia Limited  
Level 21, 400 George Street  
SYDNEY NSW 2000

Salomon Smith Barney Australia Securities Pty Limited  
Level 25, 2 Park Street  
SYDNEY NSW 2000

### **SOLICITORS TO CNH CAPITAL AUSTRALIA PTY LIMITED**

Allens Arthur Robinson  
The Chifley Tower

# **CNH Capital Australia Receivables Trust**

2 Chifley Square  
SYDNEY NSW 2000