

**IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK  
TRIAL DIVISION  
JUDICIAL DISTRICT OF SAINT JOHN**

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

- and -

**IN THE MATTER OF THE APPLICATION  
OF ATLANTIC YARNS INC., a body  
corporate, AND ATLANTIC FINE YARNS  
INC., a body corporate**


**ELEVENTH REPORT OF THE MONITOR  
July 13, 2009**


I, ROBERT C. SMITH, of the Town of Rothesay, County of Kings, Judicial District of Saint John, and Province of New Brunswick, MAKE OATH AND REPORT TO THE COURT THAT:

1. I am a Chartered Accountant, licensed Trustee in Bankruptcy, and Senior Vice-President of PricewaterhouseCoopers Inc. ("PWC"), the Monitor of Atlantic Yarns Inc. ("AY") and Atlantic Fine Yarns Inc. ("AFY") (collectively "the Companies") and have personal knowledge of the matters hereinafter deposed to, except where otherwise stated, and in such cases I do verily believe the truth of the contents deposed to;
2. In our Ninth Report of the Monitor we advised the Court that the Plan of Arrangement had failed, and by Order dated January 15, 2009 the Court authorized the Monitor to take certain actions. The following were set out in Paragraph 4 of that Order:



**Monitor**


4. *The Monitor is hereby empowered and authorized, but not obligated, to act at once in respect of all of the respective Applicants' current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property") and, without in any way limiting the generality of the foregoing, the Monitor is hereby expressly empowered and authorized to do any of the following where the Monitor considers it necessary or desirable:*
- a) *to take possession and control of the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;*
  - b) *to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;*
  - c) *to cease to carry on all or any part of the businesses or either of them or cease to perform any contracts of the Applicants, or of either of them;*
  - d) *to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel, employees or independent contractors and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;*
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- e) *to receive and collect all monies and accounts now owed or hereafter owing to either or both the Applicants and to exercise all remedies of the Applicants in collecting such monies, including, without limitation, to enforce any security held by the Applicants;*
  - f) *to settle, extend or compromise any indebtedness owing to either or both of the Applicants;*
  - g) *to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Monitor's name or in the name and on behalf of the Applicants, or either of them, for any purpose pursuant to this Order;*
  - h) *to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Applicants, or either of them, the Property or the Monitor, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;*
  - i) *to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Monitor in its discretion may deem appropriate, all subject to the written consent of applicable first ranking secured creditor or further Order of the Court;*
  - j) *all subject to the written consent of applicable first ranking secured creditor, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,*
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(i) *without the approval of this Court in respect of any transaction not exceeding \$500,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and*

(ii) *with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,*

*and in each such case notice under subsection 59 of the Personal Property Security Act (New Brunswick) and subsections 44 and 45 of the Property Act (New Brunswick) shall not be required;*

- k) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;*
  - l) to report to, meet with and discuss with such affected Persons (as defined below) as the Monitor deems appropriate on all matters relating to the Property and the monitorship, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable;*
  - m) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;*
  - n) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Monitor, in the name of the Applicants, or either of them;*
  - o) to enter into agreements with any trustee in bankruptcy appointed in respect of the Applicants, or either of them, including, without limiting the*
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*generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Applicants, or either of them;*

*p) to exercise any shareholder, partnership, joint venture or other rights which the Applicants, or either of them may have;*

*q) to take any steps reasonably incidental to the exercise of these powers; and*

*r) in each case where the Monitor takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Applicants, or either of them, and without interference from any other Person,*

*provided however that where the Monitor's proposed conduct would directly affect any of the rights, collateral, interests, claims or recovery of a secured creditor, the Monitor shall obtain the written consent of the affected secured creditor."*

### **Actions**

3. In keeping with the above directions, the Monitor:

- (a) took possession of the assets of the Companies and filed an assignment in Bankruptcy;
- (b) prepared an invitation to offer to purchase the assets of the Companies, in whole or in part;
- (c) met with the unionized and non-unionized employees of the Companies at locations satisfactory to them in their respective communities;
- (d) communicated directly, by mail, with each of the creditors and held a further meeting of the creditors for each Company;
- (e) has been paying costs and collecting receipts of the Companies;
- (f) has retained certain employees of the Companies to assist in security and marketing of the properties;
- (g) has continued to prosecute the appeals on property taxes on the properties;

- (h) has marketed the property of the Companies on a global basis;
  - (i) has consulted with GE Canada Holding Finance Company (“GE”), Sunflag Canada Inc. (“Sunflag”), First Treasury (“FT”) and the Province of New Brunswick (“PNB”) on their respective security interests; and
  - (j) has made the Order of the Court available and posted updates on the website maintained for that purpose.
4. In our Tenth Report of the Monitor, we reported on the sale of the equipment and received Court approval to complete a sale of the equipment. The sale of the equipment was subject to achieving a resolution of the rental of the properties for a longer period of time. The resolution was complex and took some time to complete;
  5. Sunflag Canada Inc. (“Sunflag”) agreed to the rental as requested. First Treasury Financial Inc. (“First Treasury”) was concerned about a number of issues;
  6. After a series of meetings in Toronto and numerous telephone calls, the Monitor brokered an arrangement whereby Sunflag would pay First Treasury and take an assignment of First Treasury’s position in respect of AY. Sunflag was thereafter the first secured creditor in respect of both AY and AFY;
  7. Any subsequent secured creditor is effectively “under water”, that is, the value of the security is less than the amounts owed in priority. In that respect, the Monitor has worked closely with the senior secured creditors to market and sell the properties;
  8. The sale of the equipment has now been completed pending receipt of a small balance of funds in respect of the sale of the equipment at AY, which we expect to have shortly. AY was the property for which there was an issue on the rental which is now resolved;



9. We have met with several prospective purchasers for the land and buildings of the Companies, and have toured the facilities with these prospective buyers;
10. We have solicited listing agreements with respect to the buildings from two real estate brokers who deal in the Maritimes;
11. Both declined to list the buildings for sale, commenting that the remote location and size of the facilities would make selling the property a very long and difficult process, and they were not prepared to undertake the activity;
12. We obtained appraisals on the buildings, which appraisals are available for the Court's review but are, at the request of the lenders, not provided for public viewing as the offering of the properties for sale is ongoing and the release of the appraisals to the public is likely not commercially reasonable or appropriate;
13. In the appraisals, Altus Group made several observations that bear repeating for the Court:
  - (a) The Northeast Economic Region has an unemployment rate of 18.2% in March, 2009, and there have been closures of numerous industries over the past few years as well as a general downturn in the economy;
  - (b) It is quite probable that there is no purchaser seeking 288,918 square feet of industrial space anywhere in the Province of New Brunswick;
  - (c) Given the unique nature of the subject property, a market exposure time of 1 to 2 years is considered reasonable; and
  - (d) It is possible that the holding costs over a two to three year period could effectively negate any increase in value that might accrue through traditional versus forced sale selling techniques.

14. The cost of holding each property is significant, being approximately \$60,000 per month per property, and the Monitor does not have funds to continue to pay these expenses.
15. We have communicated with the Province of New Brunswick (the "Province") and local development authorities in an effort to generate interest in the buildings;
16. There are two prospective purchasers for the buildings, but in both cases the time for a sale is many months away and there is no certainty of a sale;
17. The Monitor reports that it is now relying on advances from Sunflag in its capacity as first secured creditor to pay the ongoing costs of maintaining the building, security and insurance;
18. As a result of the various proceedings, agreements and assignment of security, the following is a summary of the current secured creditor priorities in respect of the Companies:


AY

| Security Ranking                            | Inventory | Real Property                             |
|---|-----------|---|
| Province of New Brunswick re property taxes |           | Approximately \$483,000 subject to appeal |
| First to approximately \$3,600,000          | Sunflag   | Sunflag                                   |
| Second                                      | Province  | Province                                  |

*R*

AFY

| Security Ranking                   | Inventory | Real Property |
|------------------------------------|-----------|---------------|
| First to approximately \$2,750,000 | Sunflag   | Sunflag       |
| Second                             | Province  | Province      |

19. The first meeting of creditors in the bankruptcy of the Companies was held on February 25, 2009 and the Trustee advised of the status of the Companies, the Monitor's actions and the proposed sale;
20. At that meeting, as set out, the creditors released their claim on the assets of the Companies to the secured creditors and approved the Trustee cooperating fully in the sale process and executing such documents as may be requested reasonably of it;
21. The Monitor has now received an offer of purchase and sale from the senior secured creditor to complete the transfer of the land, buildings and residual inventory to the secured creditor, after which the secured creditor will assume responsibility for the costs going forward as the then owner of the property, a copy of the offer is attached hereto as Exhibit "A";
22. The value ascribed represents fair value of the buildings and inventory in the opinion of the Monitor, which is based on the appraisals received; and
23. The sale as contemplated will then complete the disposition of the assets of the Companies and the Monitor will subsequently apply for taxing of its accounts and its discharge, and the completion of the CCAA process. 

**Current Application**

24. In pursuance of the instruction and authorization of the Court, the Monitor is now asking the Court for a Vesting Order or, in the alternative, an Order authorizing the Monitor to sell the land, buildings and inventory free and clear of all liens or encumbrances (except property taxes on the AY property) to the purchaser;
25. The Monitor advises the Court that after completion of the transfer, the senior secured lender (Sunflag) will still be owed a substantial sum of money by the Companies, which amounts will not be repaid;
26. There are secured outstanding property taxes unpaid in respect of Atlantic Yarns Inc. in the approximate amount of \$350,000 which are under appeal, and will not be paid as part of the transfer of the properties to the secured lender, accordingly the requested Order includes a direction that the transfer of title be registered on title notwithstanding the outstanding property taxes which the buyer assumes responsibility for;
27. Sunflag, as the DIP lender and the buyer, has confirmed that in its opinion the value received in this sale represents full value for the land, buildings and inventory in the circumstances and approves of the sale;
28. The Monitor is satisfied that the price offered is appropriate and represents the current fair market value in the circumstances;
29. The Monitor is satisfied that even with a more prolonged sales effort, the properties will not sell for more than is owed to Sunflag; and
30. The Monitor does not believe any other party would argue that they have any economic interest in the assets in question. Sunflag will lose money on the transactions;





Exhibit: A / Date: 13/07/09  
d/m/y

Rebecca M Atkinson  
Commissioner of Oaths  
Being a Solicitor

**APPENDIX H**

**FORM OF OFFER**

**INVITATION FOR OFFERS TO PURCHASE**

**The Assets of Atlantic Yarns Inc. and/or Atlantic Fine Yarns Inc.**

To: PricewaterhouseCoopers Inc.  
44 Chipman Hill, 3<sup>rd</sup> Floor  
Saint John NB E2L 4B9  
Attention: Robert C. Smith, CA-CIRP

Sunflag Canada Inc. (or its nominee)

(Name of Prospective Purchaser)

2600 Matheson Boulevard East, Mississauga, Ontario, L4W

(Address (include postal code))

905-602-7272x258

(Telephone)

email to prao@atlanticyarns.com

(Facsimile)

**I** I, we, hereby submit this offer for one or more of the following parcel(s). (The amount shown for each parcel will be considered a separate offer).

Parcel 1 - Lands & Buildings – Atholville, New Brunswick \$ \_\_\_\_\_

Parcel 3 – Inventory of supplies on hand, Atholville \$ \_\_\_\_\_

Parcel 4 - Land and Building – Pokemouche, New Brunswick \$ \_\_\_\_\_

Parcel 6 – Inventory of supplies on hand, Pokemouche \$ \_\_\_\_\_

**II** I, we, hereby submit this offer for the **bulk purchase** of the following parcels:

*A bulk offer must indicate the value attributed to each parcel included in the bulk offer.*

Parcel 1 - Lands & Buildings – Atholville, New Brunswick \$ 1,500,000.00

Parcel 2 -deleted

*R*

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**APPENDIX H**

|  |                        |
|--|------------------------|
| Parcel 3 – Inventory of supplies on hand, Atholville     | \$ <u>120,000.00</u>   |
| Parcel 4 - Land and Building – Pokemouche, New Brunswick | \$ <u>1,500,000.00</u> |
| Parcel 5 – deleted                                       |                        |
| Parcel 6 – Inventory of supplies on hand, Pokemouche     | \$ <u>130,000.00</u>   |
| <b>Total Offer for Bulk Purchase</b>                     | \$ <u>3,250,000.00</u> |

III Enclosed is the cash deposit by way of certified cheque, bank draft or money order in the amount of \$ 50,000.00. The balance of the HST component will be paid as each parcel is completed, and the balance of purchase price to be set off against the debt of the DIP lender, Sunflag Canada Inc. The \$50,000 to be applied to the last closing.

IV It is acknowledged that this offer is subject to the Terms and Conditions of Sale issued by the Vendor.

DATED AT LONDON, this 36<sup>th</sup> day of May, 2009.  
(city or town) (day) (month)

Sunflag Canada Inc.  
(PRINTED NAME OF PROSPECTIVE PURCHASER)

  
\_\_\_\_\_

Transaction to be completed on or before June 15, 2009 or as soon thereafter as possible. It is agreeable to close each property separately.  
The offer for the properties may not be severed.  
Sale of Atholville is subject to First Treasury agreeing to accept payment over time in accordance with the CCAA plan of arrangement.

*P*

**PRICEWATERHOUSECOOPERS INC.**

**MONITOR OF ATLANTIC YARNS INC. AND  
ATLANTIC FINE YARNS INC.**

**TERMS AND CONDITIONS OF SALE**

1. The Vendor is Atlantic Fine Yarns Inc., or Atlantic Yarns Inc., as may be appropriate, as represented by its Court appointed **Monitor of Atlantic Yarns Inc. and Atlantic Fine Yarns Inc.** ("Vendor") in its capacity as Monitor and not in its personal capacity.
2. The Assets being offered for Sale, pursuant to these Terms and Conditions of Sale, consist of the Vendor's interest in the assets as described in the Invitation for Offers to Purchase Assets, property description and equipment list.
3. Offers marked "**Offer – Atlantic Yarns Group**" addressed to PricewaterhouseCoopers Inc., 44 Chipman Hill, 3<sup>rd</sup> Floor, Saint John, New Brunswick E2L 4B9. Offers will be reviewed and considered as received.
4. Each offer must be accompanied by a certified cheque, bank draft or money order payable to "PricewaterhouseCoopers Inc. - In Trust", for an amount equal to 5% of the offered price. If an offer is accepted and approved, the cheque, bank draft or money order shall be deemed a cash deposit and the balance of the purchase price shall be paid to the Vendor, at the times and on the terms and conditions herein set out. Upon notification of acceptance of the offer, Purchasers shall increase the cash deposit by a further 5% within 5 business days.
5. All offers shall be submitted on the required Form of Offer, which is attached to these Terms and Conditions of Sale. The Monitor may reject offers that are not on the required Form of Offer.
6. In consideration of the Vendor making available these Terms and Conditions of Sale, other information and the opportunity of inspection and/or in consideration of the Vendor receiving offers, each prospective Purchaser agrees that its offer is irrevocable and cannot be retracted, withdrawn, varied or countermanded prior to acceptance or rejection thereof.
7. The highest or any offer shall not necessarily be accepted. Preference may be given to en bloc offers.

## APPENDIX G

8. If the Vendor accepts any offer, then such acceptance shall be communicated to the successful prospective Purchaser within ten (10) business days of the date fixed for the closing of receipt of offers. Such notice may be by telephone, email, facsimile or other means of recorded telecommunications or by registered mail or delivery. Notice of acceptance shall be deemed effectively given when so delivered, telephoned or sent by facsimile or other means of recorded telecommunication or on date of deposit in a post office if mailed by registered mail, as the case may be. Upon such acceptance, there shall be an Agreement of Purchase and Sale between the Vendor and the Purchaser on the terms contained herein and the offer, these Terms and Conditions of Sale, and the acceptance shall be sufficient evidence of such Agreement.
9. Certified cheques, bank drafts or money orders accompanying offers that are not accepted by the Vendor will be returned, without interest, to the address given in the offer within the later of ten (10) business days of the date fixed for the closing of receipt of offers and the Court approval of the sale of the assets.
10. The balance of the purchase price shall be paid to the Vendor by cash or certified cheque upon closing, which closing shall occur within thirty days next after acceptance of offers by the Monitor provided that where Court approval may be sought by the Monitor and has not been obtained within 10 days of the date of acceptance, the closing date shall be extended until 30 days after Court approval, or on such other date as may be mutually agreed between the Monitor and purchaser.
11. Upon closing of the sale contemplated by the Agreement of Purchase and Sale, the Purchaser shall be entitled, upon receipt by the Vendor of the Purchase Price, only to such Deeds, Form 13 Transfers (Land Titles Act of New Brunswick), Bills of Sale or Assignments as may be considered necessary by the Vendor to convey the Assets to the Purchaser or the Assignee of the Purchaser provided that the Purchaser shall remain liable under the Agreement of Purchase and Sale, notwithstanding any assignment thereof by the Purchaser. Any such Deeds, Form 13 Transfers (Land Titles Act of New Brunswick), Bills of Sale or Assignments shall contain only a conveyance of the Vendor's interest in the Assets and shall not contain any covenant other than a covenant that the Vendor has done no act to encumber the Assets.
12. Real Property Taxes will be adjusted on the Closing Date. The Vendor will undertake to pay or other wise satisfy all Real Property Taxes for 2009 and prior such that clear title is passed to the Purchaser.
13. In addition of the Purchase Price for the Assets being purchased, the Purchaser shall pay to the Vendor on the Closing Date all applicable federal, provincial and other taxes unless all necessary Certificates to exempt the Purchaser there from are provided to the Vendor

## APPENDIX G

on or before the Closing Date. The Purchaser shall arrange its own insurance and there shall be no adjustment of insurance. The Purchaser shall be responsible for all costs with respect to the obtaining of all Federal, Provincial, civic and other licenses necessary to carry on a business.

14. The obligation of the Vendor to sell, and the Purchaser to purchase, the Assets shall, at the option of the Vendor terminate in the event that, prior to the Closing Date of the sale the Assets are substantially destroyed by fire, flood, the elements, Government action, or civil commotion or any other external cause beyond the control of the Vendor. Such option to terminate by the Vendor shall be exercised by giving notice in writing to the Purchaser that it intends to take the proceeds, if any, payable under any existing insurance policies and terminate the Agreement of Purchase and Sale. In such an event, the Agreement of Purchase and Sale shall automatically terminate and be deemed null and void and the deposit money shall be returned to the Purchaser without interest, cost, and compensation or deduction and no party shall be liable to another for any costs or damages whatsoever. If the Vendor does not exercise such option, the Purchaser, at his option may perform the Agreement of Purchase and Sale, such option to be exercised in writing, within seven (7) business days after notice to the Purchaser that the Vendor does not intend to exercise its option to terminate. In such event, the Purchaser shall be entitled only to an assignment of any proceeds payable under the existing insurance policies and transfer of any remaining Assets in full settlement of the Vendor's obligations to repair or replace the damaged assets and in full satisfaction of this Agreement of Purchase and Sale. If the Purchaser does not exercise his option, the Agreement of Purchase and Sale shall be automatically terminated and deemed null and void and the deposit money shall be refunded to the Purchaser without interest, costs, compensation or deduction and neither party shall be liable to the other for any costs or damages whatsoever.
15. The Vendor shall remain in possession of the Assets until the Closing Date and completion of the Agreement of Purchase and Sale. Title to the Assets shall not pass to the Purchaser, nor shall the Purchaser be entitled to possession of same, until the purchase price and all other payments to be made by the Purchaser pursuant to the Agreement of Purchase and Sale have been paid in full.
16. The Vendor may pay and discharge out of the monies to be paid by the Purchaser any liens or encumbrances not being assumed by the Purchaser.
17. If, on or before closing, it is found that there are property claims, encumbrances or charges against any of the Assets being offered for sale which the Purchaser has not agreed to assume in addition to, or as part of his offer, and which the Vendor is not willing to discharge, then, subject to the Vendor's consent, the offer may be reduced by the Purchaser by the amount of the value of the claimed or encumbered assets (calculated by prorating the value of the encumbered assets based on the actual offered price) or the

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Vendor at its own option may rescind the agreement to sell the assets in question and the Purchaser shall be entitled solely to the return of the cash deposit without interest and without any other compensation of any kind or nature whatsoever for any loss, damages or other costs.

18. Subject to the terms and provisions hereof being complied with, the Purchase and Sale shall be closed not later than twenty (20) business days after the acceptance of the offer, provided however that where Court approval may be sought by the Monitor and has not been obtained within 10 days of the date of acceptance, the closing date shall be extended until 10 days after Court approval, or on such other date as may be mutually agreed between the Monitor and purchaser.
19. If the Purchaser fails to comply with these Terms and Conditions of Sale, the deposit shall be forfeited to the Vendor on account of liquidated damages and the Assets may be resold by the Vendor in such manner and on such terms as the Vendor in its sole discretion determines and the Purchaser shall pay to the Vendor (i) an amount equal to the amount, if any, by which the Purchase Price under the Agreement of Purchase and Sale exceeds the net purchase price received by the Vendor pursuant to such resale, and (ii) an amount equal to all costs and expenses incurred by the Vendor in respect of or occasioned by the Purchaser's failure to comply with the Agreement of Purchase and Sale.
20. By submitting an offer, the Purchaser acknowledges that it has inspected the Assets and that the Assets are sold on an "as is, where is" basis at the time of closing and that no representation, warranty or condition is expressed or implied as to title, description, environmental conditions, fitness for purpose, merchantability, quantity, condition, cost, or quality thereof or in respect of any other matter or thing whatsoever. Without limitation the Assets are specifically offered as they exist on closing and with no adjustments to be allowed the Purchaser for changes in conditions, qualities or quantities of the Assets from the date hereof to the Closing Date except as specifically provided for in the Terms and Conditions of Sale. Each Purchaser acknowledges that the Vendor is not required to inspect or count, or provide any inspection or counting, of the Assets.
21. PricewaterhouseCoopers Inc. acts in its capacity as Monitor as aforesaid and shall have no personal or corporate liability hereunder or from any Agreement of Purchase and Sale of contemplated hereby or as a result of any sale contemplated hereby.
24. In the event that some of the offers submitted are substantially in the same terms and/or amounts, the Vendor may in its sole discretion call upon those prospective Purchasers to submit further offers.
25. The Terms and Conditions contained herein shall not merge on closing, but shall survive such closing and remain in full force and effect and be binding on the Purchaser thereafter.

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26. The submission of an offer by a resident of the province of Quebec will be deemed to constitute the declaration and acknowledgement by such resident that it has requested these Terms and Conditions of Sale, the Form of Offer referred to herein and all other documentation relating to its offer and the acceptance thereof to be drawn up in the English language.
27. In the event that disruption occurs with respect to the Canadian or other postal service, all notices contemplated by these Terms and Conditions of Sale may be forwarded by telegram or facsimile.
28. The validity and interpretation of these Terms and Conditions of Sale, and of each provision and part thereof, and of any Agreement of Purchase and Sale defined herein, shall be governed by the laws of New Brunswick and the Courts of the Province of New Brunswick shall have exclusive jurisdiction with respect to any disputes arising out of these Terms and Conditions of Sale or any Agreement of Purchase and Sale entered into pursuant to these Terms and Conditions of Sale.
29. The Vendor at its own discretion may waive any or all of the Terms and Conditions of Sale herein.
30. If there is any conflict between these conditions and the advertised Invitation for Offers to Purchase Assets, the terms contained in these Terms and Conditions of Sale shall prevail.
31. The Agreement of Purchase and Sale entered into pursuant to these Terms and Conditions of Sale shall endure to the benefit of and be binding upon the parties thereto, and their respective successors and assigns.
32. All stipulations as to time are strictly of the essence.
33. In the event that the Purchaser fails to deposit the additional cash deposit in accordance with clause 4, the Purchaser shall be deemed to have forfeited its deposit and failed to complete the transaction and the provisions of clause 20 shall apply.

**PricewaterhouseCoopers Inc.**  
Monitor of Atlantic Yarns Inc.  
and Atlantic Fine Yarns Inc.  
44 Chipman Hill, 3<sup>rd</sup> Floor  
Saint John NB, E2L 4B9  
Attention: Robert C. Smith, CA-CIRP