Court File No. N/M/17/10

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

IN THE MATTER OF THE RECEIVERSHIP OF:

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

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

BETWEEN:

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

APPLICANT

- and –

COURT OF QUEEN'S BENCH RECEIVED AND FILED SEP 29 2010 COUR DU BANC DE LA REINE REÇU ET DÉPOSÉ

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

RESPONDENTS

<u>APPROVAL AND VESTING ORDER</u>
<u>(re Atlantic Minerals Limited)</u>

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THIS MOTION, made by Ernst & Young Inc. in its capacity as Court-appointed receiver and receiver manager of the property, assets and undertakings of the Respondents (the "**Receiver**") for an order: (a) authorizing and directing the Receiver to complete the sale to Atlantic Minerals Limited ("**Atlantic**") of the assets identified as Parcel 1.1A in the Tender Process and Tender Information Package approved by the Order of The Honourable Mr. Justice Riordon granted in these proceeding dated July 28, 2010 and listed on **Schedule "A"** attached hereto (the "**Purchased Assets**"), the sale of which is contemplated by the tender submitted by Atlantic (the "**Atlantic Tender**"), which is appended to the Supplement to the Seventh Report dated September 24, 2010 (the "**Supplemental Report**"); and (b) vesting in Atlantic the right, title and interest of the Respondents in and to the Purchased Assets, was heard this day at 673 King George Highway, Miramichi, New Brunswick.

ON READING the Seventh Report of the Receiver dated September 24, 2010 and the appendices attached thereto, the Supplemental Report and the appendices attached thereto, and the Receiver's Record on Motion, and on hearing the submissions of counsel for the Receiver, The Bank of Nova Scotia, the Province of New Brunswick, Aviva Surety, Caterpillar Financial Services Limited and General Electric Canada Equipment Financing G.P. and related entities,

1. **THIS COURT ORDERS AND DECLARES** that the Atlantic Tender for the Purchased Assets is hereby approved and the acceptance of the Atlantic Tender by the Receiver is hereby authorized and approved. The Receiver is hereby authorized and directed to complete the sale of the Purchased Assets to Atlantic and to take such additional steps and execute such additional documents as may be necessary or desirable for the conveyance of the Purchased Assets to Atlantic.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to Atlantic substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of the Respondents' right, title and interest in and to the Purchased Assets shall vest absolutely in Atlantic, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and

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whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by Orders of The Honourable Mr. Justice Riordon granted in these proceedings; (ii) any encumbrances or charges created by Orders of The Honourable Mr. Justice Riordon granted in proceedings bearing Court File No. N/M/16/10, (iii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (New Brunswick), the *Land Titles Act* (New Brunswick), the *Registry Act* (New Brunswick) or any other personal property or real property registry system (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

4. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

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

(a) the pendency of these proceedings;

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

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

the vesting of the Purchased Assets in Atlantic pursuant to this Order shall be binding on any trustee in bankruptcy appointed in respect of the Respondents and shall not be void or voidable

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by creditors of the Respondents, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

7. **THIS COURT ORDERS** that any party that has received notice of the Seventh Report and the Receiver's Record on Motion may apply to this Court to vary or amend this Order by serving a notice of motion requesting such relief on the parties recorded on the service list maintained by the Receiver in these proceedings by no later than 5:00 pm AST on Friday October 8, 2010.

Dated at Miramichi, New Brunswick, this 29th day of September 2010.

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

SCHEDULE "A" – PURCHASED ASSETS

1. Nine (9) conveyors, identified as Parcel 1.1A in the Receiver's Tender Information Package approved by the Order of Justice Riordon dated July 28, 2010 granted in proceedings bearing Court File Number N/M/17/10.

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SCHEDULE "B" – Form of Receiver's Certificate

N/M/17/10.

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IN BANKRUPTCY AND INSOLVENCY
JUDICIAL DISTRICT OF MIRAMICHI

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BETWEEN:

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APPLICANT

- and –

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RESPONDENTS

RECEIVER'S CERTIFICATE

RECITALS

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

B. Pursuant to an Order of the Court dated September 29, 2010 (the "**Approval and Vesting Order**"), the Court approved the Atlantic Tender, authorized and approved the acceptance of the Atlantic Tender by the Receiver, and provided for the vesting in Atlantic of the right, title and interest of the Respondents in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to Atlantic of a certificate confirming (i) the payment by Atlantic of the purchase price for the Purchased Assets; (ii) that the conditions to closing as set out in the Atlantic Tender have been satisfied or waived by the appropriate party; and (iii) the transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. Atlantic has paid and the Receiver has received the purchase price for the Purchased Assets payable on the closing date pursuant to the Atlantic Tender;

2. The conditions to closing as set out in the Atlantic Tender have been satisfied or waived by the Receiver or the appropriate party; and

3. The transaction has been completed to the satisfaction of the Receiver.

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

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

By: ______________________________

Name:

Title: