

ARCTIC CAT INC
Form SC TO-T/A
February 10, 2017

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE TO/A

(Amendment No. 2)

**Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934**

Arctic Cat Inc.

(Name of Subject Company (Issuer))

Aces Acquisition Corp.,

Textron Specialized Vehicles Inc.

and

Textron Inc.

(Name of Filing Persons (Offerors))

Common Stock, par value \$0.01 per share
(Title of Class of Securities)

039670104

(CUSIP Number of Class of Securities)

E. Robert Lupone

Executive Vice President, General Counsel and Secretary

Textron Inc.

40 Westminster Street, Providence, RI 02903

Telephone: (401) 421-2800

(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Filing Persons)

Copy to:

Robert M. Katz

Shearman & Sterling LLP

599 Lexington Avenue

New York, NY 10022

Telephone: (212) 848-4000

Calculation of Filing Fee

Transaction Valuation(1)
\$246,258,816.78

Amount of Filing Fee(2)
\$28,541.40

(1) Estimated for purposes of calculating the amount of the filing fee only, in accordance with Rule 0-11(d) under the Securities Exchange Act of 1934, as amended (the Exchange Act). Calculated by adding (a) 13,061,142 shares of common stock of Arctic Cat Inc. issued and outstanding, multiplied by \$18.50, the per share tender offer price, (b) 480,518 shares of common stock subject to outstanding stock options with an exercise price less than \$18.50 per share, multiplied by \$2.71, which is the offer price of \$18.50 per share minus the weighted average exercise price for such options of \$15.79 per share, and (c) 179,756 shares of common stock subject to outstanding restricted stock units, multiplied by \$18.50, the per share tender offer price, in each case as of January 31, 2017. The calculation of the filing fee is based on information provided by Arctic Cat Inc. as of January 31, 2017.

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(2) The filing fee was calculated in accordance with Rule 0-11 of the Exchange Act and Fee Rate Advisory #1 for fiscal year 2017, issued October 1, 2016, by multiplying the transaction valuation by 0.0001159.

Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and date of its filing.

Amount Previously Paid: \$28,541.40

Filing Party: Aces Acquisition Corp., Textron Specialized Vehicles Inc. and Textron Inc.

Form or Registration No.: Schedule TO-T

Date Filed: February 2, 2017

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

third-party tender offer subject to Rule 14d-1.

issuer tender offer subject to Rule 13e-4.

going-private transaction subject to Rule 13e-3.

amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

This Amendment No. 2 filed with the Securities and Exchange Commission on February 10, 2017, amends and supplements the Tender Offer Statement filed on Schedule TO (as amended or supplemented, the *Schedule TO*) with the Securities and Exchange Commission on February 2, 2017, by Aces Acquisition Corp., a Minnesota corporation (*Purchaser*) and a direct wholly owned subsidiary of Textron Specialized Vehicles Inc., a Delaware corporation (*Textron Specialized Vehicles*), which is a direct wholly owned subsidiary of Textron Inc., a Delaware corporation (*Textron*), Textron Specialized Vehicles and Textron. The Schedule TO relates to the offer by Purchaser to purchase all of the outstanding shares of common stock, par value \$0.01 per share (each, a *Share* and collectively, the *Shares*) of Arctic Cat Inc., a Minnesota corporation (*Arctic Cat*), at a price of \$18.50 per Share, payable net to the holder thereof in cash, without interest, subject to any withholding of taxes required by applicable law, upon the terms and subject to the conditions set forth in the offer to purchase, dated February 2, 2017 (as it may be amended or supplemented, the *Offer to Purchase*), and the related letter of transmittal (as it may be amended or supplemented, the *Letter of Transmittal*, and together with the Offer to Purchase, the *Offer*), copies of which are attached to the Schedule TO as Exhibits (a)(1)(A) and (a)(1)(B), respectively. The information set forth in the Offer to Purchase, including all schedules thereto, and the related Letter of Transmittal is incorporated herein by reference with respect to all of the applicable items in the Schedule TO, except that such information is hereby amended and supplemented to the extent provided herein. All capitalized terms used in this Amendment No. 2 without definition have the meanings ascribed to them in the Schedule TO.

Item 4. Terms of the Transaction.

The Offer to Purchase and Item 4 of the Schedule TO, to the extent Item 4 incorporates by reference the information contained in the Offer to Purchase, are hereby amended and supplemented as set forth below:

The information set forth in the Summary Term Sheet *Until what time may I withdraw previously tendered Shares?* is hereby amended by replacing *April 27, 2017* with *April 3, 2017*.

The information set forth in Section 4. *Withdrawal Rights* is hereby amended by replacing *April 27, 2017* with *April 3, 2017*.

All references in the Notice of Offer to Purchase for Cash (Exhibit (a)(1)(G)) to *April 27, 2017* are amended and replaced with *April 3, 2017*.

Item 11. Additional Information.

The Offer to Purchase and Item 11 of the Schedule TO, to the extent Item 11 incorporates by reference the information contained in the Offer to Purchase, are hereby amended and supplemented as set forth below:

The information set forth in Section 11. *Purpose of the Offer; Plans for Arctic Cat; Other Matters* is hereby amended and supplemented by adding the following as a new subsection after the paragraphs in subsection (e) *Going Private Transactions*:

(f) *Recent Developments Relating to Arctic Cat.* Following the announcement that Textron and Purchaser had entered into the Merger Agreement with Arctic Cat on January 24, 2017, on February 8, 2017, a complaint captioned *LR Trust v. Arctic Cat Inc., et. al.* Case No. 17-CV-426 was filed in the United States District Court, District of Minnesota naming as defendants Arctic Cat and the Arctic Cat Board. This action purports to be a class action brought by a shareholder alleging, among other things, that Arctic Cat and the Arctic Cat Board knowingly or with deliberate recklessness omitted material information from its Tender Offer Solicitation/Recommendation Statement on Schedule 14D-9 in violation of Section 14(d)(4) and Rule 14d-9 of the Exchange Act, and made untrue statements of material facts in its Tender Offer Solicitation/Recommendation Statement on Schedule 14D-9 in violation of Section 14(e) of the Exchange Act.

The outcome of this litigation cannot be predicted with certainty. A preliminary injunction could delay or jeopardize the completion of the transactions, and an adverse judgment granting permanent injunctive relief could indefinitely enjoin completion of the transactions.

The information set forth in Section 16. Legal Matters; Required Regulatory Approvals is hereby amended and supplemented by adding the following as a new paragraph to the end of the subsection thereunder entitled *Antitrust Compliance* :

On February 9, 2017, the German Federal Cartel Office provided clearance for the Merger to be consummated. Accordingly, as the Antitrust Division and the FTC granted early termination of the applicable waiting period under the HSR Act on February 3, 2017, the Regulatory Approval Condition to the Offer has been satisfied.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: February 10, 2017

ACES ACQUISITION CORP.

By: /s/ Elizabeth C. Perkins
Name: Elizabeth C. Perkins
Title: Vice President

TEXTRON SPECIALIZED VEHICLES INC.

By: /s/ Elizabeth C. Perkins
Name: Elizabeth C. Perkins
Title: Vice President

TEXTRON INC.

By: /s/ E. Robert Lupone
Name: E. Robert Lupone
Title: Executive Vice President, General Counsel,
Secretary and Chief Compliance Officer