

petition (the “Verified Petition”) for an order: (a) recognizing the Canadian Proceeding as a foreign main proceeding pursuant to section 1517 of title 11 of the United States Code (the “Bankruptcy Code”); (b) giving full force and effect in the United States to the initial order issued on February 22, 2012 by the Canadian Court (the “Initial Order”),² including any extensions or amendments thereof authorized by the Canadian Court; (c) granting the agent and lenders under the Debtors’ postpetition financing facility certain protections afforded by the Bankruptcy Code; and (d) granting such other and further relief as this Court deems just and proper. In support of the Verified Petition, the Monitor refers the Court to the statements contained in: (i) the *Declaration of Philip J. Reynolds in Support of the Verified Petition of Alvarez & Marsal Canada Inc., as Foreign Representative of Arctic Glacier Inc. and Certain of Its Affiliates, for (I) Recognition of Foreign Main Proceeding and (II) Certain Related Relief* (the “Reynolds Declaration”), filed contemporaneously herewith, and (ii) the affidavit of Keith McMahon, the chief executive officer of Arctic Glacier (the “McMahon Affidavit”), submitted to the Canadian Court in support of its Initial Order, a copy of which is attached to the Reynolds Declaration as Exhibit B. In further support of this Verified Petition and request for related relief, the Monitor respectfully represents as follows:

PRELIMINARY STATEMENT

Arctic Glacier comprises thirty-one (31) entities headquartered in Winnipeg, Manitoba and engages in the manufacture and distribution of packaged ice products in Canada and certain markets in the United States. As a result of several factors, including a drop in demand due to poor weather in certain markets, increased financing costs, and substantial expenses associated with certain civil and criminal antitrust litigation, Arctic Glacier’s financial

² A copy of the Initial Order is attached to the Reynolds Declaration as Exhibit A.

condition has deteriorated. As a consequence, Arctic Glacier breached certain financial covenants in its prepetition secured credit agreements during the summer of 2011.

Arctic Glacier has concluded, in consultation with its professional advisors, that it is in the best interests of all its stakeholders to pursue a going concern sale of its business under the supervision of the Canadian Court and with the benefit of monitoring in accordance with the CCAA. Accordingly, Arctic Glacier, with the support of its prepetition secured lenders, filed an Application for an Initial Order commencing proceedings under the CCAA with the Canadian Court on February 22, 2012, seeking, among other things, the Canadian Court's approval and supervision of a marketing process and postpetition financing to be provided by its prepetition secured lenders.

On February 22, 2012, the Canadian Court entered the Initial Order:

(i) commencing the Canadian Proceeding and granting a stay for the benefit of the applicants in the Canadian Proceeding; (ii) appointing Alvarez & Marsal Canada Inc. as Monitor and Foreign Representative, (iii) authorizing the Debtors to enter into a debtor in possession credit facility with its prepetition lenders (the "DIP Lenders," which shall include any of their assignees, as may be applicable) pursuant to the terms of a Commitment Letter dated February 21, 2012 (the "Commitment Letter")³ between Arctic Glacier Inc. ("Arctic Glacier Canada") and Arctic Glacier International Inc. ("Arctic Glacier U.S.") as Borrowers, and AGIF and any existing or subsequently organized or acquired subsidiary of AGIF as Guarantors, and the DIP Lenders; (iv) granting stay protection to Glacier Valley Ice Company, L.P. ("Glacier L.P."), a non-Debtor affiliate of Arctic Glacier, and; (v) approving a marketing process for the going concern sale or

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A copy of the Commitment Letter is attached as Exhibit Q to the McMahon Affidavit.

refinancing of the Debtors' business to be conducted in accordance with a Sale and Investor Solicitation Process (the "SISP"), a copy of which is attached as Schedule B to the Initial Order.

The Monitor, as appointed Foreign Representative, is now commencing these chapter 15 cases to seek the assistance of this Court in giving effect in the United States to the orders of the Canadian Court entered in the Canadian Proceeding. By this Verified Petition, the Monitor is specifically requesting that the Court (a) recognize the Canadian Proceeding as a foreign main proceeding; (b) give full force and effect in the United States to the Initial Order, as it may be extended, modified or amended by the Canadian Court, including the Canadian Court's approval of the SISP (as it may be modified or amended) and the Canadian Court's extension of stay protection to Glacier L.P.; (c) grant the DIP Lenders certain protections afforded by the Bankruptcy Code; and (d) grant certain related relief.

As set forth below and in the Reynolds Declaration, all statutory elements for the relief requested herein are satisfied, and the Monitor therefore respectfully requests that the Court grant this Verified Petition.

JURISDICTION AND VENUE

This Court has jurisdiction to consider the Motion pursuant to sections 157 and 1334 of title 28 of the United States Code. These cases have been properly commenced pursuant to section 1504 of the Bankruptcy Code by the filing of a petition for recognition of the Canadian Proceeding under section 1515 of the Bankruptcy Code. This is a core proceeding under section 157(b)(2)(P) of title 28 of the United States Code. Venue is proper in this District pursuant to section 1410 of title 28 of the United States Code. The statutory predicates for the relief requested herein are sections 105(a), 362, 364, 365, 1517 and 1521 of the Bankruptcy Code.

BACKGROUND

I. *Arctic Glacier's Business*

1. As set forth in the Reynolds Declaration, Arctic Glacier is engaged in the manufacture and distribution of premium-quality, packaged ice products to more than 75,000 retail locations in Canada and the United States (the "Business"). The Debtors are the largest producers of packaged ice in Canada and the second largest producer in the United States, with combined production capacity in both countries of 11,266 tons of ice per day and refrigerated storage capacity of 65,467 pallets of finished product, with each pallet holding approximately one ton of packaged product. The Debtors operate thirty-nine production plants and forty-seven distribution facilities across six provinces in Canada and in twenty-three states in the United States.

2. Since Arctic Glacier was founded in 1996, the Business has grown significantly, both organically and through an acquisition strategy in the highly fragmented ice production and distribution industry. To date, Arctic Glacier has acquired seventy-nine (79) packaged ice businesses in Canada and the United States at a cost of almost US\$475 million. In 2010, Arctic Glacier had aggregate sales of US\$233.5 million and earnings before interest, taxes, depreciation and amortization ("EBITDA") of US\$48.9 million.

3. Packaged ice products, which represent approximately 94% of Arctic Glacier's sales, are marketed primarily under the "Arctic Glacier® Premium Ice" brand. Ancillary products such as bottled water and dry ice, among others, represent approximately 6% of sales. The majority of Arctic Glacier's sales are to resellers, such as supermarkets, mass merchants, convenience stores and gasoline outlets. Arctic Glacier's customer base is well diversified, and includes large national and regional chains. It is generally not economical to transport product beyond 100 miles or a 2-hour driving radius, so multiple facilities are required

to service larger regional markets. For a vast majority of its customers, Arctic Glacier is the sole supplier of packaged ice at any given store location.

4. Weather has a significant impact on consumer demand, and the Business is highly seasonal, with approximately 75% of sales generated between April and September each year.

5. Arctic Glacier presently employs approximately 900 full-time employees. During the peak summer months, employee levels typically increase to approximately 2,200 regular and seasonal employees.

II. *Arctic Glacier's Corporate Structure*

6. Arctic Glacier Income Fund ("AGIF") is the Debtors' ultimate parent and is an unincorporated, open-ended mutual fund trust under Canadian law, having its head office at 625 Henry Avenue, Winnipeg, Manitoba. The settlement and administration of AGIF is presently governed by the Second Amended and Restated Declaration of Trust dated as of December 6, 2004. AGIF trust units ("Units" held by "Unitholders") are listed and publicly traded on the Canadian National Stock Exchange (CNSX) under the stock symbol "AG-UN." There are presently 350,318,387 Units issued and outstanding.

7. AGIF owns all of the issued and outstanding capital stock of Arctic Glacier Canada, an Alberta corporation also having its head office at 625 Henry Avenue, Winnipeg, Manitoba. Arctic Glacier Canada owns and operates the Debtors' packaged ice manufacturing and distribution business in Canada, which includes twelve (12) production or distribution centers located throughout Canada.

8. In addition, Arctic Glacier Canada owns all of the issued and outstanding stock of Arctic Glacier U.S., a Delaware corporation that is the direct or indirect holding company parent for all of Arctic Glacier's 28 U.S. operating subsidiaries that serve markets in

the United States (collectively with Arctic Glacier U.S., the “Arctic Glacier U.S. Group”). The business conducted through the Arctic Glacier U.S. Group represents approximately 81% of Arctic Glacier’s total sales.

9. Arctic Glacier functions as an integrated North American business and each of the Debtors, including the Arctic Glacier U.S. Group, are centrally managed from the Arctic Glacier headquarters in Winnipeg, Manitoba. All key senior management are located in Winnipeg, including the Chief Executive Officer, the Chief Financial Officer, the Executive Vice-President for Operations, the Vice-President for Sales and Marketing, and the Vice-President for Acquisitions and Integration.

10. As described in additional detail in the Reynolds Declaration, all key corporate functions are managed and performed in Winnipeg, including treasury, corporate finance and accounting, strategic decision making, communications and investor relations, human resources, payroll, information technology, new business development initiatives, pricing and equipment acquisition. All key documents, including leases, the Secured Indebtedness that funds the Business, insurance and other key corporate documents, are negotiated, arranged, and maintained in Canada. Corporate books and records are maintained in the Winnipeg office.

III. *The Debtors’ Capital Structure*

11. Arctic Glacier Canada and Arctic Glacier U.S. are borrowers under a revolving credit facility governed by the Fourth Amended and Restated Loan Agreement dated February 10, 2010 (as amended and restated, the “First Lien Credit Agreement,” with amounts owing thereunder from time to time referred to herein as the the “First Lien Debt”). AGIF and each of the direct and indirect subsidiaries of Arctic Glacier U.S. are guarantors of the First Lien Debt. Obligations under the First Lien Credit Agreement are secured by first priority liens on

substantially all of the Debtors' real and personal property assets in both the United States and Canada.

12. In addition, Arctic Glacier Canada and Arctic Glacier U.S. are borrowers under certain term loans pursuant to an agreement dated February 10, 2010 (as amended and restated, the "Second Lien Credit Agreement," with amounts owing thereunder from time to time referred to herein as the "Second Lien Debt"). Pursuant to the Second Lien Credit Agreement, two term loans were provided: one to Arctic Glacier Canada in the principal amount of C\$50 million and the other to Arctic Glacier U.S. in the principal amount of approximately US\$138.4 million. AGIF and each of the direct and indirect subsidiaries of Arctic Glacier U.S. are guarantors of the Second Lien Debt. Obligations under the Second Lien Credit Agreement are also secured by first priority liens on substantially all of the Debtors' real and personal property assets in both the United States and Canada, subject to the liens granted in respect of the First Lien Credit Agreement.

13. CPPIB Credit Investments Inc. ("CPPIB") and West Face Capital and related entities (collectively "WF") and collectively with CPPIB and including their predecessors in title and any of their assignees, as may be applicable, the "Prepetition Secured Lenders") are the lenders under the Second Lien Credit Agreement, and they obtained the rights and security of the lenders under the First Lien Credit Agreement pursuant to an Assignment and Assumption Agreement dated December 14, 2011.

14. As of the date hereof, the Debtors are indebted to the Prepetition Secured Lenders for advances and accommodations under (a) the First Lien Credit Agreement in the total amount of US\$23,162,298 and C\$7,032,219 and (b) the Second Lien Credit Agreement in the

total amount of US\$162,059,039 and C\$58,921,394 as set out in the demand delivered by the Prepetition Secured Lenders on February 21, 2012.

IV. Events Leading to Cross Border Filings

15. Since mid-2008, the Debtors' financial performance has suffered from a variety of factors including: (a) substantial, extraordinary costs and the negative effects related to certain U.S. antitrust investigations and charges and related significant civil actions in the U.S. and Canada; (b) increased financing costs due to rising levels of relatively expensive debt; and (c) unfavorable weather in the critical second fiscal quarter of 2011. These factors, which are described in more detail in the McMahon Affidavit, have resulted in deteriorating earnings.

16. Since 2008, Arctic Glacier has been the subject of certain U.S. antitrust investigations and charges, and certain significant civil actions in the U.S. and Canada arising from the same or similar allegations, the most critical of which have been settled or (with respect to certain state attorney general investigations) have been dormant for some time. Arctic Glacier has incurred approximately \$42 million in costs related to these matters including \$23.5 million in settlement expenses since March, 2008, which has had a very significant negative impact on Arctic Glacier's financial performance.

17. The settled investigations include one by the Antitrust Division of the U.S. Department of Justice (Southern District of Ohio) (the "DOJ"). On October 13, 2009, Arctic Glacier U.S. and the DOJ entered into an agreement by which Arctic Glacier U.S. pleaded guilty to one charge of market allocation in southeast Michigan, agreeing to pay a US\$9 million fine in installments over five (5) years, thereby settling all charges. This plea agreement was accepted by the U.S. District Court on February 11, 2010, and its terms have been reflected in a probation agreement. To date, Arctic Glacier has paid two installments toward the fine: US\$ 1 million on

each of March 5, 2010 and March 3, 2011. The next installment of US\$1.5 million is due March 3, 2012.

18. Following the announcement of the DOJ's investigation, a number of civil lawsuits (the "U.S. Civil Class Actions") were filed by and on behalf of direct and indirect purchasers of Arctic Glacier products, alleging violations of U.S. federal antitrust laws. The U.S. Civil Class Actions were transferred and consolidated for pre-trial proceedings in the U.S. District Court for the Eastern District of Michigan (the "District Court"). On March 30, 2011, without admitting liability, the Arctic Glacier defendants, AGIF, Arctic Glacier Canada. and Arctic Glacier U.S., reached an agreement to settle the direct purchaser class actions by payment of US\$12.5 million, which agreement was subsequently approved by the District Court. The first settlement payment installment in the amount of US\$2.5 million was paid August 4, 2011. Final payment of US\$10 million is due on April 2, 2012. Actions by indirect purchasers are still pending, though Arctic Glacier has succeeded in dismissing certain of their state law claims.

19. In the summer of 2011, the Debtors breached certain financial covenants, including covenants governing the maximum leverage ratio, the interest coverage ratio, the fixed charge coverage ratio and minimum EBITDA levels (collectively, the "Covenant Defaults"), under both the First Lien Credit Agreement and the Second Lien Credit Agreement.

20. At the request of the Debtors, the Covenant Defaults were temporarily waived by the former lenders under the First Lien Credit Agreement (the "Former First Lien Lenders") and the Prepetition Secured Lenders. In September, 2010, Arctic Glacier retained TD Securities Inc. as its financial advisor to conduct a broad process seeking a refinancing or sale of the Business that would permit Arctic Glacier (a) to repay the Secured Indebtedness and the

Convertible Debentures (as defined below) and (b) recapitalize its business so that it could compete effectively across North America.

21. On July 31, 2011, Arctic Glacier was required to either repay in cash or repay by way of conversion into Units, holders of 6.50% extendible convertible unsecured subordinated debentures (the “Convertible Debentures”). Arctic Glacier was unable to refinance the Convertible Debentures and exercised its right as at July 31, 2011 to convert \$90.4 million of convertible debenture debt into new Units. The result was that Arctic Glacier’s balance sheet was significantly improved, but Units held by Unitholders prior to the conversion were diluted by approximately 90%.

22. The temporary waivers by the Former First Lien Lenders and the Prepetition Secured Lenders expired in early September 2011, and Notices of Default were issued by both the Former First Lien Lenders and the Prepetition Secured Lenders. The Former First Lien Lenders also capped the availability of operating credits under the First Lien Credit Agreement.

23. Pursuant to an intercreditor agreement, the issuance of the Notice of Default by the Former First Lien Lenders initiated a block of all payments on the Second Lien Debt. This payment block was subsequently removed on December 14, 2011 when the Prepetition Secured Lenders purchased the First Lien Debt. However, since the date of the Notice of Default, Arctic Glacier has not made any payments on account of the Second Lien Debt.

24. Beginning in May 2011, Arctic Glacier was also engaged in intensive negotiations with one party that had proposed a transaction that would involve a refinancing of Arctic Glacier’s business (the “Strategic Transaction”). Talks regarding the Strategic

Transaction ultimately collapsed in October 2011, however, when certain Unitholders, who collectively held approximately 16% of AGIF's Units, declined to support the Strategic Transaction.

25. Arctic Glacier ultimately concluded, in consultation with its professionals and with the cooperation of the Prepetition Secured Lenders, to pursue a going concern sale or refinancing of the Business under the supervision of the Canadian Court and with the benefit of monitoring in accordance with the CCAA.

V. The Canadian Proceeding and the DIP Facility

26. The Canadian Court entered the Initial Order commencing the Canadian Proceeding on February 22, 2012. The Initial Order appointed Alvarez & Marsal Canada Inc. as the Foreign Representative and Monitor in the Canadian Proceeding and approved the SISP for the marketing of a going concern sale or refinancing of the Business. The SISP, a copy of which is attached as Schedule B to the Initial Order will involve: (a) an initial 35-day Phase 1 period during which potential, qualified bidders will be provided a confidential information memorandum and access to an online data room, and the Debtors' financial advisor will solicit non-binding letters of intent, followed by a five-day period of consideration of the letters of intent by the Monitor in consultation with Arctic Glacier; and (b) assuming there is a reasonable prospect for one or more "Qualified Bids" (as such term is defined in the SISP), an additional 45-day Phase 2 period (which may be extended to a maximum of 60 days) during which further due diligence is permitted to obtain final "Qualified Bids" and the "Successful Bid" ultimately is chosen and recommended to the Canadian Court for approval. The SISP's duration is estimated to be 160 days or less. The SISP process is summarized in greater detail in the Pre-Filing Report of the Monitor, which is attached to the Reynolds Declaration as Exhibit C.

27. The Initial Order also authorized the Debtors to enter into the DIP Facility pursuant to the terms of the Commitment Letter. The Initial Order authorizes the Debtors to borrow up to an aggregate maximum amount of US\$24 million and C\$26 million under the DIP Facility for working capital requirements, other general corporate purposes and capital expenditures. The Initial Order also grants the DIP Lenders a charge on all property of the Debtors, which has priority as set forth in the Initial Order.

28. In addition, the Initial Order granted stay protection to Glacier L.P., which was not eligible to file for CCAA protection as a partnership, but is wholly owned by two of the Debtors.

RELIEF REQUESTED

29. The Monitor, as Foreign Representative, seeks entry of an order, substantially in the form attached hereto as Exhibit A, granting the following relief:

- (a) recognition of the Canadian Proceeding as a foreign main proceeding as defined in section 1502(4) of the Bankruptcy Code in respect of Arctic Glacier;
- (b) automatic relief as of right upon recognition of a foreign main proceeding pursuant to section 1520 of the Bankruptcy Code;
- (c) giving full force and effect to the Canadian Proceeding and the Initial Order, as it may be subsequently amended, extended or modified by the Canadian Court, including the Canadian Court's supervision of the SISP (as it may be modified or amended);
- (d) consistent with the relief granted in the Initial Order, staying the commencement of any proceeding against Glacier L.P. and any execution against its assets;
- (e) pursuant to sections 1520 and 1521 of the Bankruptcy Code, authorizing and granting the DIP Lenders the liens, charges and adequate protection as negotiated in the DIP Facility approved by the Canadian Court and extending to the DIP Lenders the protections afforded by section 364(e) of the Bankruptcy Code; and

- (f) awarding the Monitor such other and further relief as the Court deems just and proper.

BASIS FOR RELIEF

I. This Chapter 15 Case Concerns a Foreign Proceeding.

30. Section 101(23) of the Bankruptcy Code provides as follows:

The term ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

11 U.S.C. § 101(23). The Canadian Proceeding is a “foreign proceeding” within the meaning of section 101(23) of the Bankruptcy Code because it is a collective judicial proceeding pending in Canada under the CCAA, and the assets and affairs of Arctic Glacier are subject to the control and supervision of the Canadian Court for the purpose of restructuring.

II. This Chapter 15 Case Has Been Commenced by a Duly Authorized Foreign Representative.

31. The Foreign Representative is duly authorized to serve in this capacity in these chapter 15 cases. The term “foreign representative” is defined under section 101(24) of the Bankruptcy Code as:

a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of such foreign proceeding.

11 U.S.C. § 101(24).

32. Pursuant to the Initial Order, the Court appointed the Foreign Representative as “Monitor” in the Canadian Proceeding and expressly authorized and directed the Foreign Representative to file chapter 15 cases in the United States:

42. THIS COURT ORDERS that Alvarez & Marsal Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Business and financial affairs of the Arctic Glacier Parties with the powers and obligations set out in the CCAA or set forth herein and that the Arctic Glacier Parties and their unit holders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Arctic Glacier Parties pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

...

70. 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 Arctic Glacier Parties, the Monitor and their respective 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 Arctic Glacier Parties and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Arctic Glacier Parties and the Monitor and their respective agents in carrying out the terms of this Order.

72. THIS COURT ORDERS that the Monitor is hereby directed, as a foreign representative of the Arctic Glacier Parties, to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1330, as amended.

(Initial Order ¶¶ 42, 70, 72.) Accordingly, the Monitor is a proper "foreign representative" within the meaning of section 101(24) of the Bankruptcy Code.

III. *These Chapter 15 Cases Have Been Properly Commenced.*

33. These chapter 15 cases were duly and properly commenced by filing the Chapter 15 Petitions and this Verified Petition accompanied by all fees, documents and information required by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure

(the “Bankruptcy Rules”), including: (a) a corporate ownership statement containing the information described in Bankruptcy Rule 7007.1; (b) a list containing (i) the names and addresses of all persons or bodies authorized to administer foreign proceedings of the Debtors, (ii) all parties to litigation pending in the United States in which the Debtors are a party at the time of the filing of the Chapter 15 Petitions, and (iii) all entities against whom provisional relief is being sought under section 1519 of the Bankruptcy Code; (c) a statement identifying all foreign proceedings with respect to the Debtors that are known to the Foreign Representative; and (d) a certified copy of the Initial Order.

34. Having filed the above-referenced documents and because this Court is entitled to presume the authenticity of such documents filed in connection with the Chapter 15 Petitions and Verified Petition under section 1516(b) of the Bankruptcy Code, the requirements of section 1515 of the Bankruptcy Code have been satisfied.

IV. *The Canadian Proceeding Should Be Recognized as a Foreign Main Proceeding.*

35. Section 1517(b)(1) of the Bankruptcy Code provides that a foreign proceeding for which recognition is sought must be recognized as a “foreign main proceeding” if it is pending in the country where the debtor has the center of its main interests. Section 1516(c) of the Bankruptcy Code further provides that, in the absence of evidence to the contrary, a debtor’s registered offices are presumed to be the center of the debtor’s main interests. The concept of “center of main interests” has been equated by courts to the concept of a debtor’s “principal place of business.” In re Tri-Continental Exch. Ltd., 349 B.R. 627, 634 (Bankr. E.D. Cal. 2006).

36. As set forth in the Reynolds Declaration, and the McMahon Affidavit, which is attached as Exhibit B to the Reynolds Declaration, Canada is the center of Arctic Glacier’s main interests. A review of the following (non-exhaustive) list of corporate functions

supports the Canadian Court's finding that the Debtors' center of main interest is located in
Winnipeg, Manitoba:

- (a) The location of the corporate head offices for all of the Debtors, including the Arctic Glacier U.S. Group, is in Winnipeg;
- (b) The Debtors, including the Arctic Glacier U.S. Group, function as an integrated North American business and all key strategic and operating decisions for the corporate group, including in respect to the operations of the Arctic Glacier U.S. Group, are made at the Debtors' main office in Winnipeg;
- (c) Virtually all key senior management are located in Winnipeg, including the Chief Executive Officer, the Chief Financial Officer, the Executive Vice-President for Operations, the Vice-President for Sales and Marketing, and the Vice-President for Acquisitions and Integration;
- (d) All key and strategic corporate functions are performed in Winnipeg, including treasury, corporate finance and accounting, communications and investor relations, human resources, information technology and new business development;
- (e) All books, records and key documents (including leases, insurance and other key corporate documents) are negotiated and maintained in Canada;
- (f) Payroll functions and accounts receivable and accounts payable for all the Debtors are managed from Winnipeg;
- (g) The Prepetition Secured Lenders representing almost all of Arctic Glacier's funded corporate debt are based in Canada, and all of the Arctic Glacier companies are borrowers or guarantors under the First Lien Credit Agreement and Second Lien Credit Agreement;
- (h) AGIF and Arctic Glacier Canada are registered in Canada, where all of their assets, operations and employees are located;
- (i) Arctic Glacier's only public securities, the Units, are traded on the Canadian National Stock Exchange and all of Arctic Glacier's public company reporting and investor relations are directed from Winnipeg;
- (j) Arctic Glacier's primary banking, lending, cash management, audit and legal relationships are all with firms located in Canada; and

- (k) The majority of the directors and officers of Arctic Glacier are Canadian residents, including the directors, chairman of the board, and chairman of the special committee, and board meetings are typically held in Canada.

Based upon the foregoing, it is beyond argument that the “nerve center” of Arctic Glacier, including the Arctic Glacier U.S. Group, is in Canada.⁴

37. In addition, recognizing the Canadian Proceeding as a foreign main proceeding would not be manifestly contrary to the public policy of the United States. Rather, granting such recognition is entirely consistent with the United States public policy of respecting foreign proceedings as codified in chapter 15 of the Bankruptcy Code. Insolvency proceedings under the CCAA in Canada are similar to cases under chapter 11 of the Bankruptcy Code in that Canadian law provides for a centralized process to assert and resolve claims against the Debtors’ estates, maximizing distributions to stakeholders.

38. Finally, chapter 15 expressly applies where “assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding.” 11 U.S.C. § 1501(b)(1). As set forth in the Initial Order, the Canadian Court has expressly requested that United States courts give aid to the Monitor and the Debtors in carrying out the terms of the Initial Order. (Initial Order ¶ 72.) In fact, the Canadian Court specifically directed the Monitor to apply for relief under chapter 15 of the Bankruptcy Code. (*Id.* ¶ 73.) Given these clear directives, recognition of the Canadian Proceeding as a foreign main proceeding is consistent with the scope of chapter 15.

⁴ An entity is considered to have its principal place of business where its nerve center is located. *Hertz Corp. v. Friend*, 130 S.Ct. 1181, 1186 (2010).

39. Based on the foregoing, the Foreign Representative respectfully submits that the Court is required to enter an order recognizing the Canadian Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.

V. *Cause Exists to Grant the DIP Lenders the Protections Afforded by Section 364(e) of the Bankruptcy Code.*

40. Upon recognition of a foreign proceeding as a foreign main proceeding, certain provisions of the Bankruptcy Code are made applicable to the chapter 15 case as a matter of right pursuant to section 1520 of the Bankruptcy Code. In addition to the protections automatically triggered by section 1520, a foreign representative may request additional “appropriate relief” pursuant to section 1521 of the Bankruptcy Code, including “any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a) [of the Bankruptcy Code.]” 11 U.S.C. § 1521(a)(7). Pursuant to section 1521(a)(7) of the Bankruptcy Code, the Foreign Representative requests that this Court grant recognition to the liens, charges and adequate protection as negotiated in the DIP Facility approved by the Canadian Court in the Initial Order and extend to the DIP Lenders the protections afforded by section 364(e) of the Bankruptcy Code, which provides:

The reversal or modification on appeal of an authorization under this section to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e).

41. The DIP Lenders have agreed to provide the DIP Facility upon the terms outlined in the Commitment Letter. The terms of the Commitment Letter were negotiated,

proposed and entered by the Debtors and the DIP Lenders without collusion, in good faith and at arm's length.

42. The DIP Facility provides, among other things, as follows:⁵

- (a) A non-revolving debt facility as determined in accordance with the DIP Commitment up to an aggregate amount of (i) in stage 1, US\$10 million and CAD \$15 million (the "Stage 1 Availability") and (ii) in Stage 2 an additional US \$14 million and CAD \$11 million (the "Stage 2 Availability") for a total availability of US \$24 million and CAD \$26 million);
- (b) Drawdowns in respect of the Stage 1 Availability are subject to the satisfaction of certain conditions precedent at the time of the drawdown, including, among others, obtaining a satisfactory order in the U.S. granting provisional chapter 15 relief, including best efforts to obtain recognition of the DIP Charge; compliance with the orders from this Court and the Canadian Court; no occurrence of a material adverse effect or an event of default under the DIP Facility; and no appointment of a trustee, receiver or examiner.
- (c) Drawdowns in respect of Stage 2 Availability are subject to the continuing satisfaction of the conditions precedent to drawdowns in respect of the Stage 1 Availability as well as certain additional conditions, including entry of an order, satisfactory to the DIP Lenders, recognizing the Canadian Proceeding as a foreign main proceeding and, granting relief in respect of the DIP Facility.
- (d) All amounts outstanding under the DIP Facility will be secured by a super priority, first ranking charge over all of the Debtors' Property (the "DIP Charge") subject only to the prior ranking charges as set forth in the Initial Order (collectively, the "Carve Out"). The U.S. Debtors will grant Arctic Glacier Inc., a Debtor and the principal Canadian operating entity, a lien that is a super-priority first-ranking charge (subject only to the Carve-Out) on account of any post-filing loans advanced by Arctic Glacier Inc. to any U.S. Debtor (the "Intercompany Liens"). The DIP Charge will apply to the Intercompany Liens.
- (e) All principal amounts and other amounts due and payable under the DIP Facility will bear interest at a per annum rate equal to

⁵ Capitalized terms used in the following summary will have the meanings given to them in the Commitment Letter. The summary is provided solely for the convenience of the Court and parties in interest and to the extent of an ambiguity or inconsistency with the Commitment Letter should not be construed as modifying the Commitment Letter in any way.

- (i) with respect to all Canadian dollar denominated amounts, the Prime Rate (as defined in the First Lien Loan Agreement) plus 5.50% (plus, until all conditions to Stage 2 Availability are satisfied, an additional 2.00% per annum) and (ii) with respect to all U.S. dollar denominated amounts, the U.S. Prime Rate (as defined in the First Lien Loan Agreement) plus 5.50% (plus, until all conditions to Stage 2 Availability are satisfied, an additional 2.00% per annum).
- (f) The DIP Facility shall mature on the earliest of (the “Maturity Date”): (i) August 15, 2012; (ii) the date on which any sale or investment transaction is completed in the Proceedings; and (iii) the date upon which an Event of Default occurs.
- (g) The Debtors agree not to contest the validity and enforceability of the Existing Debt or of any agreements and documents relating thereto.
- (h) Pursuant to a Fee Letter, which was filed confidentially with the Canadian Court, the Debtors will pay an upfront fee based on a percentage of the aggregate amount of Total Availability (paid in two installment coinciding with Stage 1 and Stage 2), a standby fee (paid monthly) of a certain percentage per annum on the unused portion of Total Availability and an one-time agency fee to the Agent.
- (i) An EBITDA Covenant requiring the Borrowers to maintain (on a consolidated basis) a minimum EBITDA of \$38 million to be tested monthly. EBITDA will be defined in a manner consistent with the Second Lien Loan Agreement subject to normalizing adjustments for one-time expenses related to the insolvency proceedings and identified in the Approved Budget.
- (j) In addition to typical events of default for financing of this type, including failure to comply with, or cure, payment obligations, covenants or reporting requirements, the DIP Facility is subject to the following additional events of default (“Events of Default”):
- i. the authorization, approval or payment of any expenditure not permitted by the applicable court orders or not specifically provided for in the Approved Budgets;
 - ii. the failure to meet any milestone provided for in the DIP Commitment or the Definitive Documents unless agreed to by the Agent;
 - iii. the issuance of any court order lifting the stay of proceedings in, or discontinuing, the Proceedings;

- iv. the commencement of any bankruptcy or insolvency proceeding in any jurisdiction by or in respect of the Debtors other than the Proceedings;
- v. the termination of the Chief Process Supervisor engaged to supervise the SISP without the prior consent of the Agent, or the resignation of the Chief Process Supervisor without the Debtors' prompt appointment of a replacement satisfactory to the Agent and the Lenders;
- vi. the appointment of a receiver, interim receiver, examiner, trustee in bankruptcy or similar official in respect of a Credit Party;
- vii. the issuance of any order in the Proceedings granting any claim or lien with equal or greater priority to the DIP Charge against the Property or any portion of thereof (other than the Carve-Out);
- viii. the issuance of any court order staying, reversing, vacating or otherwise modifying the terms of the DIP Facility or the DIP Charge;
- ix. the initiation of any challenge to the validity, perfection, priority or enforceability of the DIP Charge, the DIP Facility, the Loan Agreements, the Security Documents, the First Lien Lenders' rights and interests, or the Second Lien Lenders' rights and interests;
- x. the sale of any Property outside the ordinary course of business other than in accordance with the SISP or otherwise approved by the Canadian Court;
- xi. the failure of the Credit Parties to comply with any of the requirements set out in the SISP without the prior written consent of the Agent and the Lenders;
- xii. the failure of any Credit Party to make prompt payment of all interest and other amounts payable in respect of the First Lien Loan Agreement (including, without limitation, all fees payable to the Agent and Lenders and any default interest);
- xiii. if the aggregate amount secured by the Critical Supplier Charge (as defined in the Initial Order) at any time exceeds C\$2 million; and

- xiv. the occurrence of an event or condition which results, considered alone or together with all such other events and conditions, in a Material Adverse Effect (determined in the reasonable judgment of the Agent and the Lenders).

43. The DIP Lenders have agreed to provide the DIP Facility according to the terms outlined in the Commitment Letter. In addition, the fact that the DIP Facility will be provided by the Debtors' Prepetition Secured Lenders, who are familiar with the Business, should result in efficiencies in communications and reporting during the Canadian Proceedings and these Chapter 15 Cases. In light of the quantum of the Prepetition Lenders' pre-filing debt and their position in the Debtors' capital structure, the Monitor believes that the terms of the Commitment Letter are reasonable under the circumstances.

44. In addition, the Debtors require immediate access to a portion of the DIP Facility to fund working capital requirements, capital expenditures, other general corporate purposes and the costs of administering their bankruptcy cases until a final hearing can be held on the Verified Petition. Arctic Glacier expects to run out of cash to continue operations in no more than two (2) weeks after entry of the Initial Order unless additional, immediate funding is provided via the DIP Facility. If the interim and final requested relief is not granted, the Debtors will be unable to secure goods, pay employees and maintain the operation of their business.

45. The DIP Lenders have conditioned interim availability of a portion of the DIP Facility on this Court's approval of the Provisional Relief Motion, including the approval of the protections granted to the DIP Lenders in the Initial Order, and may not make the financing available if they are not also granted provisional protections under section 364(e) of the Bankruptcy Code while recognition is under consideration.

46. Accordingly, the Foreign Representative requests that the Court recognize the provisions of the Initial Order of the Canadian Court, which authorize and grant the DIP

Lenders the liens, charges and adequate protection as negotiated in the DIP Facility approved by the Canadian Court. The DIP Facility will preserve and maintain the going concern value of the Debtors' estates, which, in turn, is integral to maximizing recoveries for the Debtors' stakeholders.

47. Furthermore, the Monitor requests that the Court afford the DIP Lenders the protections available under section 364(e) of the Bankruptcy Code. Cause exists to grant the requested relief pursuant to section 1521(a)(7) of the Bankruptcy Code because the Debtors require the funds under the DIP Facility and the DIP Lenders will not make the funds available unless they are afforded the protections negotiated, including the protections of section 364(e) of the Bankruptcy Code. Moreover, the relief requested is routinely granted to debtors in domestic proceedings and has been granted by bankruptcy courts in this district to other chapter 15 debtors. See, e.g., In re Angiotech Pharm., Inc., Case No. 11-10269 (Bankr. D. Del. Feb. 22, 2011); In re Fraser Papers, Inc., Case No. 09-12123 (Bankr. D. Del. July 13, 2009); In re Destinator Techs., Inc., Case No. 08-11003 (Bankr. D. Del. May 20, 2008).

VI. *Cause Exists to Stay Commencement of Proceedings Against Glacier L.P. and Execution Against Glacier L.P.'s Assets*

48. As noted above, section 1521(a)(7) of the Bankruptcy Code provides that a foreign representative may request "any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a) [of the Bankruptcy Code.]" 11 U.S.C. § 1521(a)(7). Accordingly, section 1521(a)(7) in conjunction with section 105(a) of the Bankruptcy Code provides authority to extend the protections of section 362 of the Bankruptcy Code to Glacier L.P., a non Debtor in these Chapter 15 Cases and the Canadian Proceeding. Indeed, courts in this district have routinely extended and applied the automatic stay to non-debtor entities in chapter 11 cases where the relief is necessary to prevent

irreparable harm. See In re Specialty Products Holdings Corp., Case No. 10-11780, Adv. 10-51085 (Bankr. D. Del. June 5, 2010); W.R. Grace & Co. v. Chakarian (In re W.R. Grace & Co.), Case No. 01-01139, Adv. A-01-771 (Bankr. D. Del. Apr. 29, 2004). In addition, courts in this district have likewise enjoined actions against directors and officers of debtors in chapter 15 cases where such relief was granted first in a CCAA proceeding and was necessary to prevent interference with the debtors' ability to carry out their restructuring. In re W.C. Wood Corp., Ltd., Case No. 09-11893 (Bankr. D. Del. June 1, 2009); In re Fraser Papers Inc., Case No 09-12123 (Bankr. D. Del. June 19, 2009).

49. As to the scope of protections requested under section 362 and 365(e) of the Bankruptcy Code, Glacier L.P. is a California limited partnership wholly owned by its general partner, Debtor Mountain Water Ice Company, and its limited partner, Debtor Arctic Glacier California Inc, each of which is an applicant in the Canadian Proceeding and a Debtor in these Chapter 15 Cases. As a partnership, Glacier L.P. is ineligible to be an applicant under the CCAA. Failure to enjoin creditor collection efforts against Glacier L.P. could result in the dissipation of Glacier L.P.'s assets and significantly disrupt the Debtors' California operations.

50. The Debtors could face immediate and irreparable harm if the commencement or continuation of actions against Glacier L.P. and its assets were not enjoined. Failure to enjoin creditor collection efforts against, and termination of contracts of, Glacier L.P. could result in the dissipation of Glacier L.P.'s assets and significantly disrupt the Debtors' California operations. Glacier L.P. is an operating company that is integral to the Debtors' California operations and leases two facilities in California that generated approximately US\$10 million in revenues during 2011. Furthermore, Glacier L.P. is a guarantor of the Debtors' First Lien and Second Lien Debt and a guarantor under the DIP Facility. For these reasons, the

Canadian Court in its Initial Order extended stay protection to Glacier L.P. In addition, the Canadian Court directed the Monitor to seek recognition and assistance of this court through these Chapter 15 Cases. Accordingly, the Foreign Representative seeks, and submits that adequate cause exists for, the extension of the protections afforded by section 362 and 365(e) of the Bankruptcy Code for the benefit of Glacier L.P.

NOTICE

51. The Foreign Representative proposes to notify all creditors of the filing of the Verified Petition in the form and manner set forth in the *Motion for Order Specifying the Form and Manner of Service of Notice*, filed concurrently herewith. The Foreign Representative believes that such notice and service constitutes reasonable and proper notice under the circumstances, and that no other or further notice is necessary or appropriate.

NO PRIOR REQUEST

52. No previous request for the relief requested herein has been made to this or any other court.

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CONCLUSION

WHEREFORE, the Foreign Representative respectfully requests that this Court enter an order, substantially in the form attached hereto as Exhibit A, (i) recognizing the Canadian Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code; (ii) giving full force and effect in the United States to the Initial Order, including any extensions or amendments thereof authorized by the Canadian Court, and (iii) granting the agent and lenders under the Debtors' postpetition financing facility certain protections afforded by the Bankruptcy Code; and (iv) granting such other and further relief as this Court deems just and proper.

Dated: Wilmington, Delaware
February 22, 2012

YOUNG CONAWAY STARGATT & TAYLOR, LLP

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- and -

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*Co-Counsel to the Monitor and
Foreign Representative*

VERIFICATION OF PETITION

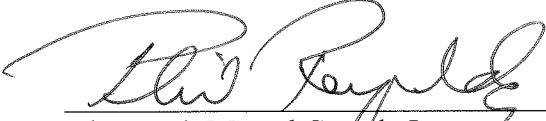
Philip J. Reynolds, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury under the laws of the United States of America as follows:

I am a Senior Director with Alvarez & Marsal Canada Inc. ("Alvarez & Marsal"), the court-appointed monitor and authorized foreign representative for the Debtors. As such, I have full authority to verify the foregoing Petition on behalf of Alvarez & Marsal and the Debtors.

I have read the foregoing Petition, and I am informed and believe that the factual allegations contained therein are true and accurate to the best of my knowledge, information and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 22, 2012



Alvarez & Marsal Canada Inc.
By: Philip J. Reynolds
Title: Vice President

EXHIBIT A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re	:	Chapter 15
	:	
ARCTIC GLACIER INTERNATIONAL INC.,	:	Case No. 12-10605 (KG)
<i>et al.</i> , ¹	:	
	:	(Jointly Administered)
Debtors in a Foreign Proceeding.	:	
	:	Ref. Docket No. ____

**ORDER GRANTING RECOGNITION OF
FOREIGN MAIN PROCEEDING AND CERTAIN RELATED RELIEF**

This matter coming before the Court on the chapter 15 petition and the Verified Petition of Alvarez & Marsal Canada Inc., as Foreign Representative of Arctic Glacier Inc. and Certain of Its Affiliates, for (I) Recognition of Foreign Main Proceeding and (II) Certain Related Relief (collectively, the “Petition”)² of petitioner, Alvarez & Marsal Canada Inc., the duly authorized foreign representative (the “Foreign Representative”) of Arctic Glacier Inc., Arctic Glacier Income Fund (“AGIF”) and certain of their direct and indirect subsidiaries (collectively, the “Debtors”), in the proceeding (the “Canadian Proceeding”) commenced under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) and

¹ The last four digits of the United States Tax Identification Number or Canadian Business Number, as applicable, follow in parentheses: (i) Arctic Glacier California Inc. (7645); (ii) Arctic Glacier Grayling Inc. (0976); (iii) Arctic Glacier Inc. (4125); (iv) Arctic Glacier Income Fund (4736); (v) Arctic Glacier International Inc. (9353); (vi) Arctic Glacier Lansing Inc. (1769); (vii) Arctic Glacier Michigan Inc. (0975); (viii) Arctic Glacier Minnesota Inc. (2310); (ix) Arctic Glacier Nebraska Inc. (7790); (x) Arctic Glacier New York Inc. (2468); (xi) Arctic Glacier Newburgh Inc. (7431); (xii) Arctic Glacier Oregon, Inc. (4484); (xiii) Arctic Glacier Party Time Inc. (0977); (xiv) Arctic Glacier Pennsylvania Inc. (9475); (xv) Arctic Glacier Rochester Inc. (6989); (xvi) Arctic Glacier Services Inc. (6657); (xvii) Arctic Glacier Texas Inc. (3251); (xviii) Arctic Glacier Vernon Inc. (3211); (xix) Arctic Glacier Wisconsin Inc. (5835); (xx) Diamond Ice Cube Company Inc. (7146); (xxi) Diamond Newport Corporation (4811); (xxii) Glacier Ice Company, Inc. (4320); (xxiii) Ice Perfection Systems Inc. (7093); (xxiv) ICESurance Inc. (0849); (xxv) Jack Frost Ice Service, Inc. (7210); (xxvi) Knowlton Enterprises Inc. (8701); (xxvii) Mountain Water Ice Company (2777); (xxviii) R&K Trucking, Inc. (6931); (xxix) Winkler Lucas Ice and Fuel Company (0049); (xxx) Wonderland Ice, Inc. (8662). The Debtors’ executive headquarters is located at 625 Henry Avenue, Winnipeg, Manitoba, R3A 0V1, Canada.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Petition.

pending before the Court of Queen's Bench Winnipeg Centre (the "Canadian Court"); and the Court having reviewed the Petition and the Reynolds Declaration, and having considered the statements of counsel with respect to the Petition at a hearing before the Court (the "Hearing"); and appropriate and timely notice of the filing of the Petition and the Hearing having been given; and no other or further notice being necessary or required; and the Court having determined that the legal and factual bases set forth in the Petition, the Reynolds Declaration and all other pleadings and proceedings in this case establish just cause to grant the relief ordered herein, and after due deliberation therefore,

THE COURT HEREBY FINDS AND DETERMINES THAT:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.

C. The Foreign Representative is the duly appointed "foreign representative" of the Debtors within the meaning of section 101(24) of the Bankruptcy Code.

D. This chapter 15 case was properly commenced pursuant to sections 1504, 1509, and 1515 of the Bankruptcy Code.

E. The Foreign Representative has satisfied the requirements of section 1515 of the Bankruptcy Code and Rule 2002(q) of the Federal Rules of Bankruptcy Procedure.

F. The Canadian Proceeding is a “foreign proceeding” pursuant to section 101(23) of the Bankruptcy Code.

G. The Canadian Proceeding is entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code.

H. Canada is the center of main interests of each of the Debtors, and accordingly the Canadian Proceeding is a “foreign main proceeding” as defined in section 1502(4) of the Bankruptcy Code, and is entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.

I. The Foreign Representative has demonstrated that the borrowing under the DIP Facility authorized by the Initial Order and stay protection for the benefit of Glacier L.P. consistent with the Initial Order are necessary to preserve the value of the Debtors’ estates.

J. The Foreign Representative has demonstrated that the terms of the Commitment Letter that will govern the proposed DIP Facility, as approved in the Initial Order are fair and reasonable and were entered into in good faith by the Debtors and the DIP Lenders and that the DIP Lenders would not extend financing without the protection provided by section 364(e) of the Bankruptcy Code, as made applicable by section 1521(a)(7) of the Bankruptcy Code. The Foreign Representative has demonstrated the fact that the DIP Facility will be provided by the Debtors’ Prepetition Secured Lenders, who are familiar with the Business, should result in efficiencies in communications and reporting during the Canadian Proceedings and these Chapter 15 Cases. In light of the quantum of the Prepetition Lenders’ pre-filing debt and their position in the Debtors’ capital structure, the Foreign Representative has demonstrated that the terms of the Commitment Letter are reasonable under the circumstances.

K. The Foreign Representative has demonstrated that the incurrence of indebtedness authorized by the Initial Order is necessary to prevent irreparable harm to Arctic Glacier because, without such financing, Arctic Glacier will be unable to continue operations, which will significantly impair the value of Arctic Glacier's assets.

L. The Foreign Representative has demonstrated that unless the protections of section 362 of the Bankruptcy Code are applied to Glacier L.P., there is a material risk that one or more parties in interest will take action against Glacier L.P. or its assets, thereby interfering with the jurisdictional mandate of this court under chapter 15 of the Bankruptcy Code, causing harm to the Foreign Representative's efforts to administer the Debtors' estates pursuant to the Canadian Proceeding and undermining the Foreign Representative's efforts to conduct a sale and maximize the value of the Debtors' assets pursuant to the terms of the SISP. As a result, the Foreign Representative and the Debtors will suffer immediate and irreparable harm for which they will have no adequate remedy at law and therefore it is necessary that the Court grant the relief requested.

M. The Foreign Representative is entitled to all the automatic relief available pursuant to section 1520 of the Bankruptcy Code without limitation.

N. The Foreign Representative is further entitled to the discretionary relief expressly set forth in section 1521(a) and (b) of the Bankruptcy Code.

O. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with the public policy of the United States, and warranted pursuant to sections 1517, 1520 and 1521 of the Bankruptcy Code.

**NOW, THEREFORE, THE COURT HEREBY ORDERS, ADJUDGES,
AND DECREES AS FOLLOWS:**

1. The Petition is granted.
2. The Canadian Proceeding is granted recognition as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.
3. The Initial Order, including any extensions, amendments or modifications thereto, is hereby enforced on a final basis and given full force and effect in the United States.
4. All relief afforded foreign main proceedings pursuant to section 1520 of the Bankruptcy Code is hereby granted to the Canadian Proceeding.
5. Sections 361 and 362 of the Bankruptcy Code shall hereby apply with respect to the Debtors and the property of the Debtors that is within the territorial jurisdiction of the United States.
6. Subject to sections 1520 and 1521 of the Bankruptcy Code, the Canadian Proceeding and the Initial Order and the transactions consummated or to be consummated thereunder, including without limitation, the DIP Facility, shall be granted comity and given full force and effect in the United States to the same extent that they are given effect in Canada, and each is binding on all creditors of the Debtors and any of their successor or assigns.
7. Pursuant to sections 105 and 1521(a)(7) of the Bankruptcy Code, Glacier L.P. shall be entitled to protections and rights coextensive with the provisions of section 362 of the Bankruptcy Code, and this Order shall operate as a stay of any execution against Glacier L.P.'s assets within the territorial jurisdiction of the United States. Specifically, all persons and entities are hereby enjoined from (a) continuing any action or commencing any additional action involving Glacier L.P., its assets or the proceeds thereof, (b) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against Glacier L.P. or its assets, (c) commencing or continuing any action to create, perfect or enforce

any lien, setoff or other claim against Glacier L.P. or any of its property, or (d) managing or exercising control over Glacier L.P.'s assets located within the territorial jurisdiction of the United States except as expressly authorized by Glacier L.P. in writing.

8. Pursuant to section 1521(a)(6), all prior relief granted to the Debtors or the Foreign Representative by this Court pursuant to section 1519(a) of the Bankruptcy Code shall be extended and that certain Order Granting Provisional Relief shall remain in full force and effect, notwithstanding anything to the contrary contained therein.

9. All entities (as that term is defined in section 101(15) of the Bankruptcy Code), other than the Foreign Representative and its expressly authorized representatives and agents, are hereby enjoined from:

- a. execution against any of the Debtors' assets and any of the assets of Glacier L.P.;
- b. the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, arbitral, or other action or proceeding, or to recover a claim, which in either case is in any way related to, or would interfere with, the administration of the Debtors' estates in the Canadian Proceeding or the solicitation, implementation or consummation of the transactions contemplated by the Initial Order, including without limitation any and all unpaid judgments, settlements or otherwise against Arctic Glacier in the United States;
- c. taking or continuing any act to create, perfect or enforce a lien or other security interest, set-off or other claim against the Debtors, Glacier L.P. or any of their property;
- d. transferring, relinquishing or disposing of any property of the Debtors to any entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative; and
- e. commencing or continuing an individual action or proceeding concerning the Debtors' or Glacier L.P.'s assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

provided, however, in each case, such injunction shall be effective solely within the territorial jurisdiction of the United States.

10. Pursuant to the Initial Order, the Debtors are hereby authorized to borrow up to US\$24 million dollars and C\$26 million under and in accordance with the terms of the DIP Credit Agreement or Commitment Letter, as defined in the Initial Order. In addition, the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, security documents, guarantees and other documents (collectively, the “DIP Documents”) as are contemplated by the Commitment Letter or as may be reasonably requested by the DIP Lenders, and the Debtors are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the DIP Lenders under and pursuant to the DIP Credit Agreement including, but not limited to, the fees and expenses of the DIP Lenders’ Canadian and United States counsel, and other advisors, as and when the same become due and are to be performed, notwithstanding any other provision of this Order and without any further order of this Court.

11. As set forth in the Initial Order, all Arctic Glacier U.S. Group entities shall provide AGIF and Arctic Glacier Canada a lien that is a super-priority, first-ranking charge, on account of any funds extended by AGIF and Arctic Glacier Canada to any Arctic Glacier U.S. Group entity after the commencement of the Canadian Proceeding (the “Intercompany Liens”). The DIP Charge shall be further secured by the Intercompany Liens. The Debtors’ Prepetition Secured Lenders have agreed to subordinate their prepetition liens to the Intercompany Liens.

12. Pursuant to section 364 of the Bankruptcy Code and subject to the priorities, terms and conditions of the Initial Order, to secure current and future amounts outstanding under the DIP Facility, the DIP Lenders are hereby granted the DIP Charge on all of

Arctic Glacier's United States assets in the maximum amount of the obligations under the DIP Credit Agreement.

13. Any obligations incurred by the Debtors as a result of entering into or performing their obligations under the DIP Credit Agreement do not and will not constitute preferences, fraudulent conveyances or transfers, transfers at under value, oppressive conduct or other challengeable or voidable transactions under any applicable law.

14. The DIP Documents and the Commitment Letter have been negotiated in good faith and at arms' length between the Debtors and the DIP Lenders. Any financial accommodations made to the Debtors by the DIP Lender pursuant to the Initial Order and the DIP Documents shall be deemed to have been made by the DIP Lenders in good faith, as that term is used in section 364(e) of the Bankruptcy Code. Accordingly, pursuant to sections 105(a), 364(e), 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, section 364(e) of the Bankruptcy Code hereby applies for the benefit of the DIP Lenders, and the validity of the indebtedness, and the priority of the liens authorized by the Initial Order made enforceable in the United States by this Order, shall not be affected by any reversal or modification of this Order on appeal or the entry of an order denying recognition of the Canadian Proceeding pursuant to section 1517 of the Bankruptcy Code.

15. No action, inaction or acquiescence by the DIP Lenders or the Prepetition Secured Lenders, including funding the Debtors' ongoing operations under this Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Lenders or the Prepetition Secured Lenders to a charge against the collateral pursuant to sections 506(c), 552(b) or 105(a) of the Bankruptcy Code. The DIP Lenders and the Prepetition Secured Lenders

shall not be subject in any way whatsoever to the equitable doctrine of “marshaling” or any similar doctrine with respect to the collateral.

16. Effective upon entry of this Order, no person or entity shall be entitled, directly or indirectly, whether by operation of sections 105, 506(c) or 552(b) of the Bankruptcy Code or otherwise, to direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of collateral or property after an Event of Default under the Commitment Letter, First Lien Credit Agreement or Second Lien Credit Agreement, or termination or breach under the Commitment Letter, the First Lien Credit Agreement, the Initial Order or this Order.

17. Notwithstanding anything to the contrary contained herein, this Order shall not be construed as (a) enjoining the police or regulatory act of a governmental unit, including a criminal action or proceeding, or (b) staying the exercise of any rights that are not subject to stay arising under section 362(a).

18. The Foreign Representative is hereby authorized to apply to this Court to examine witnesses, take evidence, seek production of documents, and deliver information concerning the assets, affairs, rights, obligations or liabilities of the Debtors, as such information is required in the Canadian Proceeding under the law of the United States.

19. The Foreign Representative, the Debtors and/or each of their successors, agents, representatives, advisors or counsel shall be entitled to the protections contained in sections 306 and 1510 of the Bankruptcy Code.

20. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Order shall be effective immediately and enforceable upon entry; (b) neither the Foreign Representative nor the DIP Lenders are subject to any stay in the implementation, enforcement

or realization of the relief granted in this Order; and (c) the Foreign Representative is authorized and empowered, and may in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

21. A copy of this Order, conformed to be true and correct, shall be served, within three business days of entry of this Order, by facsimile, electronic mail or overnight express delivery, upon all persons or bodies authorized to administer foreign proceedings of the Debtors, all entities against whom provisional relief was granted under section 1519 of the Bankruptcy Code, all parties to litigation pending in the United States in which any of the Debtors were a party at the time of the filing of the Petition, the United States Trustee and such other entities as the Court may direct.

22. Such service shall be good and sufficient service and adequate notice for present purposes.

23. This Court shall retain jurisdiction with respect to: (i) the enforcement, amendment or modification of this Order; (ii) any requests for additional relief or any adversary proceeding brought in and through this chapter 15 case; and (iii) any request by an entity for relief from the provisions of this Order, for cause shown.

Dated: Wilmington, Delaware
_____, 2012

UNITED STATES BANKRUPTCY JUDGE