

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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

**NOTICE OF FILING OF SEVENTH REPORT OF THE MONITOR**

**PLEASE TAKE NOTICE** that Alvarez & Marsal Canada Inc., in its capacity as the court-appointed monitor and authorized foreign representative (the “Monitor”) for the above-captioned debtors (collectively, the “Debtors”) in a proceeding under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, pending before the Court of Queen’s Bench Winnipeg Centre, hereby files the *Seventh Report of the Monitor*, dated October 16, 2012 (the “Seventh Monitor’s Report”). A copy of the Seventh Monitor’s Report is annexed hereto as Exhibit 1.

**PLEASE TAKE FURTHER NOTICE** that additional copies of the Seventh Monitor’s Report are available: (a) by accessing the Court’s internet website at <https://ecf.deb.uscourts.gov> (a login and a password to the Court’s Public Access to Court Electronic Records (“Pacer”) are required to access this information and can be obtained through the PACER Service Center at <http://www.pacer.psc.uscourts.gov>); (b) from the Monitor’s website at <http://www.alvarezandmarsal.com/arcticglacier> or <http://www.kccllc.net/ArcticGlacier> (without cost); or (c) upon written request to the Monitor’s counsel (by email or facsimile) addressed to: Young Conaway Stargatt & Taylor LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801 (Attn.: Melissa Romano, e-mail, [mromano@ycst.com](mailto:mromano@ycst.com) or facsimile, 302-576-3450) (without cost).

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<sup>1</sup> 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.

Dated: October 26, 2012  
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Ian J. Bambrick

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**EXHIBIT 1**

**Seventh Monitor's Report**

**THE QUEEN'S BENCH  
WINNIPEG CENTRE**

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

**AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
ARCTIC GLACIER INCOME FUND, ARCTIC GLACIER INC.,  
ARCTIC GLACIER INTERNATIONAL INC. AND THE ADDITIONAL  
APPLICANTS LISTED ON SCHEDULE "A" HERETO  
(COLLECTIVELY, "THE APPLICANTS")**

**SEVENTH REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.  
OCTOBER 16, 2012**

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## 1.0 INTRODUCTION

- 1.1 Pursuant to an order of The Court of Queen's Bench (Winnipeg Centre) (the "**Court**") dated February 22, 2012 (the "**Initial Order**"), Alvarez & Marsal Canada Inc. was appointed as Monitor (the "**Monitor**") in respect of an application filed by Arctic Glacier Income Fund ("**AGIF**"), Arctic Glacier Inc. ("**AGI**"), Arctic Glacier International Inc. ("**AGII**") and those entities listed on **Appendix "A"**, (collectively, and including Glacier Valley Ice Company L.P., the "**Applicants**") seeking certain relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"). The proceedings commenced by the Applicants under the Initial Order are referred to herein as the "**CCAA Proceedings**".
- 1.2 The Monitor has previously filed six reports with this Honourable Court. Capitalized terms not otherwise defined in this Seventh Report are as defined in the Initial Order or in the reports previously filed with this Honourable Court by the Monitor.
- 1.3 As previously reported in the Monitor's Sixth Report dated August 29, 2012, on June 7, 2012, Arctic Glacier, LLC (formerly known as H.I.G. Zamboni LLC), an affiliate of H.I.G. Capital (the "**Original Purchaser**"), and the Applicants, excluding AGIF (the "**Vendors**") entered into an asset purchase agreement (the "**APA**"), pursuant to which the Original Purchaser agreed to purchase all of the Vendors' assets except the Excluded Assets and to assume all of the Vendors' liabilities except the Excluded Liabilities, on an "as is, where is" basis (the "**Sale Transaction**").
- 1.4 Pursuant to the provisions of the APA, the Original Purchaser designated certain of its affiliates to acquire the Assets and entered into a Designated Purchaser Agreement with

its designees Arctic Glacier, LLC, Arctic Glacier U.S.A., Inc., and Arctic Glacier Canada, Inc. (collectively, the “**Purchaser**”).

- 1.5 The Sale Transaction contemplated by the APA, as amended, closed effective as of 12:01 a.m. on July 27, 2012. On July 27, 2012, the Monitor delivered the Monitor’s Certificate to the Purchaser and subsequently filed same with the Court.
- 1.6 After the closing of the Sale Transaction, the business formerly operated by the Applicants is now being operated by the Purchaser. As such, and in anticipation of the closing of the Sale Transaction, the Applicants sought and obtained a Transition Order dated July 12, 2012. Among other things, the Transition Order provides that, on and after the closing of the Sale Transaction, the Monitor is empowered and authorized to take such additional actions and execute such documents, in the name of and on behalf of the Applicants, as the Monitor considers necessary in order to perform its functions and fulfill its obligations as Monitor or to assist in facilitating the administration of these CCAA Proceedings. A copy of the Transition Order is attached as **Appendix “B”**.
- 1.7 This report (the “**Seventh Report**”) is filed in support of the Monitor’s motion seeking an order:
  - a) Approving the sale of the Huntington Property (as defined below) (the “**Huntington Transaction**”) contemplated by the purchase and sale agreement, as amended, dated July 6, 2012, (the “**Huntington PSA**”) between the Applicant Arctic Glacier New York Inc. (“**AGNY**”) and Peter J. Pastorelli, Sr. as assigned to 50 Ice House LLC (the “**Buyer**”);



- b) Authorizing and directing the Monitor, on behalf of AGNY, to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Huntington Transaction;
- c) Sealing the Confidential Supplement to the Seventh Report until further order of this Court; and
- d) Approving this Seventh Report and the Monitor's activities described herein.

1.8 Further information regarding these proceedings can be found on the Monitor's website at <http://www.alvarezandmarsal.com/arcticglacier>.

## **2.0 TERMS OF REFERENCE**

2.1 In preparing this Seventh Report, A&M has necessarily relied upon unaudited financial and other information supplied, and representations made, by certain former senior management of Arctic Glacier ("**Senior Management**") who are continuing to operate the Arctic Glacier business for the Purchaser. Although this information has been subject to review, A&M has not conducted an audit or otherwise attempted to verify the accuracy or completeness of any of the information of the Applicants. Accordingly, A&M expresses no opinion and does not provide any other form of assurance on or relating to the accuracy of any information contained in this Seventh Report or otherwise used to prepare this Seventh Report.

2.2 Certain of the information referred to in this Seventh Report consists of financial forecasts and/or projections or refers to financial forecasts and/or projections. An examination or review of financial forecasts and projections and procedures, in accordance with standards set by the Canadian Institute of Chartered Accountants, has

not been performed. Future-oriented financial information referred to in this Seventh Report was prepared based on estimates and assumptions provided by Senior Management. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections and such variations could be material.

2.3 The information contained in this Seventh Report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Applicants.

2.4 Unless otherwise stated, all monetary amounts contained in this Seventh Report are expressed in United States dollars, which is the Applicants' common reporting currency.

### **3.0 THE HUNTINGTON PROPERTY**

3.1 AGNY (as successor by merger to Arctic Glacier Losquadro Inc.) is the current legal owner of a property described as 50 Stewart Avenue, Huntington, County of Suffolk and State of New York, U.S.A., known by the tax lot address of District 0400, Section 072, Block 02 and Lot 011 and more fully described on Exhibit "A" to the Huntington PSA (the "**Huntington Property**").

3.2 The Huntington Property consists of two one-story industrial buildings with an area of approximately 15,672 square feet on a 30,196 square foot lot and includes approximately 270 feet of frontage on Stewart Avenue in Huntington, New York.

3.3 As described at paragraph 188 of the affidavit of Keith McMahon sworn February 21, 2012 in support of the Applicants' application for the Initial Order (the "**McMahon Affidavit**"), at the commencement of the CCAA Proceedings, the Applicants were in the process of relocating their distribution operations in the Long Island region from the

Huntington Property to another facility. As part of this process, the Applicants had negotiated a conditional agreement for the sale of the Huntington Property for a selling price of \$1.065 million (the “**Initial Huntington PSA**”).

- 3.4 The Initial Huntington PSA provided that the purchaser thereunder had until February 29, 2012 to complete an environmental assessment on the property and that the contemplated sale was to close 30 days thereafter.
- 3.5 The Applicants’ former Lenders had consented to the sale contemplated by the Initial Huntington PSA and completion of the sale was permitted under the provisions of the DIP Commitment Letter. The Initial Order also provided that the Applicants could complete the sale as contemplated at the time.
- 3.6 Following the date of the Initial Order, the purchaser under the Initial Huntington PSA withdrew its offer to purchase the Huntington Property as it was unwilling to waive the conditions set out in the Initial Huntington PSA. Accordingly, the agreement to sell the Huntington Property as described in the McMahon Affidavit was terminated and the transaction did not close.

**The Initial Huntington Sale Process**

- 3.7 Prior to entering into the Initial Huntington PSA, Industry One Realty Corp (the “**Broker**”), a commercial real estate broker, was engaged by the Applicants. The Broker has advised that, at that time, it contacted five of its existing clients who were seeking a property of a similar nature, one of whom ultimately became the purchaser under the Initial Huntington PSA.

- 3.8 Additionally, the Applicants had commissioned an independent property appraisal in early 2010 (the "**Huntington Appraisal**") in order to estimate the market value of the Huntington Property.
- 3.9 A copy of the Huntington Appraisal dated March 4, 2010 is attached to the Confidential Supplement. The Huntington Appraisal contains estimates of the property's value and it would be detrimental for any future marketing process if the information contained in the Huntington Appraisal is publicly disclosed. Thus, the Monitor is requesting that the Confidential Supplement be sealed and kept confidential pending a further Order of this Court so that any future sale process for the Huntington Property is not impaired should the transaction contemplated by the Huntington PSA not close.

#### **The Subsequent Sale Process**

- 3.10 Following the termination of the Initial Huntington PSA, the Applicants instructed the Broker to resume the marketing process and canvass the market and solicit offers for the Huntington Property (the "**Subsequent Sale Process**"). The listing price was originally \$1.45 million.
- 3.11 A copy of the listing agreement dated May 26, 2011 between the AGNY and the Broker (the "**Listing Agreement**") is attached as **Appendix "C"**. The terms of the Listing Agreement include a commission of 5% of the purchase price, payable to the Broker on the completion of a transaction.
- 3.12 A summary of the Subsequent Sale Process is as follows:
- The Broker prepared a marketing package for the Huntington Property (the "**Marketing Package**") and distributed it to its database of customers, including real

estate brokers, real estate developers, commercial property developers and other parties it considered to be potential purchasers. In total, the Marketing Package was distributed to approximately 500 parties. A copy of the Marketing Package is attached as **Appendix "D"**;

- The Broker also advertised the Huntington Property on the following four online real estate listing agencies: (i) costar.com, (ii) showcase.com, (iii) loopnet.com, and (iv) industryone.com, the Broker's website; and
- Through its marketing efforts, the Broker identified three parties who expressed a significant interest in the Huntington Property. In consultation with the Monitor, these parties were each provided with the Applicants' standard form of purchase and sale agreement and were asked to submit their best offer for the Huntington Property.

3.13 Subsequently, the Applicants received three offers for the Huntington Property (the "**Offers**"), which were also provided to the Monitor for its review. The Offers are summarized in and appended to the Confidential Supplement. As set out above, the Monitor is seeking a sealing order with respect to the Confidential Supplement. Disclosure of the other Offers received in the Subsequent Sale Process could be detrimental for any future marketing process if the transaction contemplated by the Huntington PSA does not close. All of the Offers were conditional on acceptable environmental assessments and certain other conditions.

3.14 AGNY, in discussion with the Applicants' legal counsel, the Broker and the Monitor, determined that the offer submitted by the Buyer (the "**Buyer's Offer**") was the best offer received and should be pursued. This decision was based on the following factors:

- a) The \$1.1 million purchase price was the highest of the Offers;
- b) The Buyer's Offer was considered to be the best and most likely to close; and
- c) The Buyer's Offer was submitted with the fewest conditions and used the Applicants' form of purchase and sale agreement.

**The Huntington PSA**

- 3.15 With the concurrence of the Monitor, AGNY and the Buyer entered into the Huntington PSA on July 18, 2012 (the "**Effective Date**"). The terms of the Huntington PSA include a purchase price of \$1.1 million (the "**Purchase Price**") and a deposit of \$110,000, which is currently being held in escrow by Stewart Title Guaranty Company. A copy of the Huntington PSA is attached as **Appendix "E"**.
- 3.16 In addition to conditions generally found in this type of real property transaction, the Huntington PSA is subject to the following conditions:
- a) A due diligence period, expiring 45 days after the Effective Date, or on earlier waiver by the Buyer, to allow the Buyer to assess the environmental condition of the Huntington Property (the "**Due Diligence Period**");
  - b) An order from this Honourable Court approving the sale as contemplated in the Huntington PSA; and
  - c) Recognition of the order of this Honourable Court by the US Court and the extension by the US Court of "free and clear" protections of section 363 under chapter 15 of the Bankruptcy Code (the "**Recognition and Sale Order**").
- 3.17 The Huntington Property has remained unoccupied and was considered a redundant property by the Applicants as well as the Purchaser of the Arctic Glacier business. The

APA provided that the Huntington Property was an Excluded Asset for the purposes of the Sale Transaction and was not acquired by the Purchaser. Accordingly, pursuant to the provisions of the Transition Order, the Monitor, on behalf of the Applicants, has continued the process for the sale of the Huntington Property that was commenced by the Applicants prior to the closing of the Sale Transaction, and more specifically has continued the Applicants' efforts to close the sale contemplated by the Huntington PSA.

- 3.18 As part of its due diligence efforts, as contemplated by the Huntington PSA, the Buyer engaged an environmental consultant to undertake certain environmental inspections ("Phase 1" and "Phase 2" inspections) on the Huntington Property. Following completion of the Phase 1 inspection, the Buyer requested that the Due Diligence Period be extended by approximately 3 weeks in order to afford it additional time to complete the Phase 2 environmental inspection.
- 3.19 On September 4, 2012, the Monitor, on behalf of AGNY, and the Buyer entered into an amendment to the Huntington PSA (the "**First Amendment**") which extended the Due Diligence Period to September 28, 2012 for the sole purpose of affording the Buyer additional time to conduct the Phase 2 environmental inspection. In the First Amendment, the Buyer waived its right to terminate the Huntington PSA pursuant to Section 6.1 thereof for all purposes, except with respect to the results of the Buyer's due diligence investigation. A copy of the First Amendment is attached as **Appendix "F"**.
- 3.20 On September 13, 2012, the Buyer delivered a copy of the Phase 2 environmental site assessment (the "**Phase 2 Report**") to the Monitor and on September 19, 2012, the Buyer delivered a copy of a letter to the Monitor that was prepared by the Buyer's

environmental consultant summarizing the issues identified during the Phase 2 inspection and providing estimated costs for certain remedial actions (the "**Phase 2 Letter**").

- 3.21 The Phase 2 Report and the Phase 2 Letter (together, the "**Environmental Reports**") raised various concerns and outlined certain additional testing that was recommended be performed on the Huntington Property. The Monitor, together with its legal counsel, including U.S. counsel with environmental expertise, reviewed the Environmental Reports and determined that, while certain of the issues were considered valid, the majority of the issues did not require any remedial action.
- 3.22 Just prior to the expiry of the extended Due Diligence Period, the Buyer advised the Monitor that, due to concerns arising from the issues identified in the Environmental Reports, the Buyer was requesting a significant Purchase Price abatement, as well as additional time to perform further environmental tests on the Huntington Property which were to be funded by the Applicants.
- 3.23 In light of its views concerning the Environmental Reports, the Monitor entered into further negotiations with the Buyer with respect to a potential modest reduction of the Purchase Price. Those negotiations resulted in an agreement to reduce the Purchase Price by \$100,000 to compensate for any costs the Buyer may incur in respect of the issues set out in the Environmental Reports. The Buyer also agreed to waive any further conditions under the Huntington PSA.
- 3.24 On September 27, 2012, the Monitor, on behalf of AGNY, and the Buyer entered into a second amendment to the Huntington PSA (the "**Second Amendment**") amending the Purchase Price to \$1.0 million (the "**Amended Purchase Price**"). In the Second Amendment, the Buyer agreed that it would not exercise its right to terminate the



Huntington PSA pursuant to section 6.1 of the agreement and that the Due Diligence Period would expire on September 28, 2012. A copy of the Second Amendment is attached as **Appendix "G"**.

**Mortgage on the Huntington Property**

- 3.25 Based on a title search with an effective date of September 4, 2012, the only registered mortgage against the Huntington Property is a mortgage in the amount of \$1.5 million (the "**Mortgage**") held by CPPIB Credit Investments Inc. ("**CPPIB**") as Successor Master Collateral Agent (the "**Agent**") dated January 23, 2012 and recorded on title to the Huntington Property on April 4, 2012. A copy of the title search is attached as **Appendix "H"**.
- 3.26 As previously set out in the Sixth Report, the Lender Claims were paid in full on the closing of the Sale Transaction. Accordingly, there are currently no amounts owing to the Applicants' former Lenders for whom CPPIB acted as Agent and there are no amounts secured by the Mortgage.
- 3.27 Further, on the closing of the Sale Transaction, following the payment of the Lender Claims, the Lenders provided the Applicants with a payout letter dated July 26, 2012 (the "**Payout Letter**"). Paragraph 6 of the Payout Letter provides that the Lenders will, at the Applicants' expense, execute and deliver to the Applicants, among other things, mortgage releases or other documents reasonably necessary to release the security interests, financing statements, and all other notices of security interests and liens previously filed by the Lenders.

- 3.28 Accordingly, it is the Monitor's view that it is appropriate that the Mortgage registered on the Huntington Property be vested out upon the closing of the sale transaction contemplated by the Huntington PSA should this Honourable Court approve the Huntington PSA and the US Court recognize such approval. As the Huntington Property constitutes real property located in the United States, the order of the Canadian Court being sought simply approves the Huntington PSA, and authorizes and directs the Monitor, on behalf of AGNY, to take the steps necessary to complete the Huntington Transaction. The proposed Canadian order does not deal with vesting issues. The Recognition and Sale Order that will be sought from the US Court will deal with the vesting of the Huntington Property in the Buyer and the extension of the "free and clear" protections of the US Bankruptcy Code to the transaction.

**The Monitor's Recommendation**

- 3.29 The Monitor has considered the process leading to the proposed sale of, and the consideration to be received for, the Huntington Property in light of the criteria set out in section 36 of the CCAA that are applicable to the disposition of assets in a CCAA Proceeding outside the ordinary course of business. For the reasons outlined in this Seventh Report, the Monitor is satisfied that the process leading to the proposed sale of the Huntington Property was fair and reasonable in the circumstances and that the consideration to be received for the Huntington Property is fair and reasonable taking into account its market value.
- 3.30 The Broker engaged by the Applicants administered two sales processes for the Huntington Property. The Broker widely canvassed the market and identified a number of potential purchasers and the Amended Purchase Price is the highest and best offer

received for the Huntington Property. The Monitor participated in and approved the process to re-market the property during the CCAA Proceedings.

- 3.31 The Monitor does not believe that the sale of the Huntington Property under a bankruptcy would be more beneficial to the creditors of the Applicants.
- 3.32 The Monitor believes that the Applicants acted in good faith to maximize value in attempting to divest the Huntington Property, made satisfactory efforts to obtain the best price and have not acted improvidently. The proposed sale of the Huntington Property will allow the estate to dispose of this Excluded Asset in a cost-effective manner and will eliminate any future carrying costs with respect to the property.
- 3.33 The Monitor is advised that AGNY and the Buyer are not related persons within the meaning of the CCAA.
- 3.34 Section 36(7) of the CCAA contains certain additional factors for the court to consider in the case of employers who are selling assets outside of the ordinary course of business. As a result of the Sale Transaction, AGNY has no employees and no obligations to make any payments to employees or former employees that would have been required under sections 6(5)(a) and (6)(a) of the CCAA<sup>1</sup>. In addition, former employees of AGNY did not participate in a pension plan. Therefore, it is the view of the Monitor that section 36(7) of the CCAA does not apply to the proposed sale of the Huntington Property.

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<sup>1</sup> Section 36(7) of the CCAA states that, "The court may grant the authorization only if the court is satisfied that the company can and will make the payments that would have been required under paragraphs 6(4)(a) and (5)(a) if the court had sanctioned the compromise or arrangement." As there is no section 6(4)(a) in the CCAA, it is the respectful submission of the Monitor that the current s. 36(7) of the CCAA contains a typographical error and the intended reference is to section 6(5)(a) and (6)(a) of the CCAA.

Further, in any event, all obligations owing to employees of the Applicants have been assumed by the Purchaser.

3.35 Accordingly, the Monitor recommends that this Honourable Court approve the transaction contemplated in the Huntington PSA, as amended.

#### **4.0 OTHER MATTERS**

##### **Claims Process**

4.1 In accordance with the provisions of the Claims Procedure Order issued by this Honourable Court on September 5, 2012, the Monitor has undertaken the following:

- On September 7, 2012, posted a copy of the Proof of Claim Document Package on the Monitor's website; and
- On September 11, 2012, caused the Notice to Claimants to be published in (i) the Globe and Mail newspaper (National Edition), (ii) the Wall Street Journal (National Edition), and (iii) the Winnipeg Free Press. Copies of the publications are attached as **Appendix "I"**.

4.2 Within seven business days following the making of the Claims Procedure Order, the Monitor also sent the Proof of Claim Form, the DO&T Proof of Claim Form, the Claimants' Guide to Completing the Proof of Claim Form and the Claimants' Guide to Completing the DO&T Proof of Claim Form to all known potential Creditors. Subsequent to that initial mailing, the Monitor sent Proof of Claim Document Packages to any party who requested one, as well as to further potential Creditors that came to the Monitor's attention during its continuing review of the Applicants' books and records and

discussions with the Applicants' insurance providers. The Claims Bar Date under the Claims Procedure Order is October 31, 2012.

- 4.3 The Monitor anticipates filing a comprehensive report with this Honourable Court that will provide details regarding the status of the Claims Process prior to the next Stay extension motion scheduled for November 29, 2012.

#### **The Arizona Lease**

- 4.4 The Monitor has been contacted by counsel for Desert Mountain LLC (the "**Arizona Landlord**"), the Applicants' former landlord for the facility located in Tolleson, Arizona, who has expressed certain concerns that the Arizona Landlord has with respect to the Sale Transaction. In particular, counsel for the Arizona Landlord has raised issues regarding the effect of the Amended and Restated Vesting and Approval Order dated June 21, 2012 on certain forced sale provisions contained in the lease for the subject premises and the treatment of its contract under the Sale Transaction.
- 4.5 The Monitor and its counsel have subsequently been involved in separate discussions with counsel to the Arizona Landlord, the Applicants and the Purchaser with respect to these concerns. The Monitor and its counsel have informed the stakeholders that they remain available to participate and facilitate discussions with respect to the Arizona lease in an effort to achieve a consensual resolution of any outstanding issues.

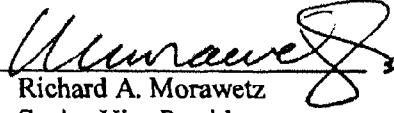
#### **5.0 THE MONITOR'S COMMENTS AND RECOMMENDATIONS**

- 5.1 For the reasons set out in this Seventh Report, the Monitor hereby respectfully recommends that this Honourable Court grant the relief being requested by the Monitor in its Notice of Motion and approve the Huntington Transaction.

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All of which is respectfully submitted to this Honourable Court this 16<sup>th</sup> day of October, 2012.

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor of Arctic Glacier Income Fund,  
Arctic Glacier Inc., Arctic Glacier International Inc. and  
the other Applicants listed on Appendix "A".**

  
Per: Richard A. Morawetz  
Senior Vice President

# **TAB A**

## Appendix "A"

### List of Applicants

Arctic Glacier California Inc.  
Arctic Glacier Grayling Inc.  
Arctic Glacier Lansing Inc.  
Arctic Glacier Michigan Inc.  
Arctic Glacier Minnesota Inc.  
Arctic Glacier Nebraska Inc.  
Arctic Glacier Newburgh Inc.  
Arctic Glacier New York Inc.  
Arctic Glacier Oregon Inc.  
Arctic Glacier Party Time Inc.  
Arctic Glacier Pennsylvania Inc.  
Arctic Glacier Rochester Inc.  
Arctic Glacier Services Inc.  
Arctic Glacier Texas Inc.  
Arctic Glacier Vernon Inc.  
Arctic Glacier Wisconsin Inc.  
Diamond Ice Cube Company Inc.  
Diamond Newport Corporation  
Glacier Ice Company, Inc.  
Ice Perfection Systems Inc.  
ICESurance Inc.  
Jack Frost Ice Service, Inc.  
Knowlton Enterprises, Inc.  
Mountain Water Ice Company  
R&K Trucking, Inc.  
Winkler Lucas Ice and Fuel Company  
Wonderland Ice, Inc.



## **TAB B**

File No. CI 12-01-76323

**THE QUEEN'S BENCH**  
Winnipeg Centre

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

AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
ARCTIC GLACIER INCOME FUND, ARCTIC GLACIER INC.  
AND ARCTIC GLACIER INTERNATIONAL INC. and the  
ADDITIONAL APPLICANTS LISTED ON SCHEDULE "A"  
HERETO"

(collectively, the "Applicants")

APPLICATION UNDER THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

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**CERTIFIED COPY**

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**TRANSITION ORDER**

DATE OF HEARING: THURSDAY JULY 12, 2012 AT 10 A.M.  
BEFORE THE HONOURABLE MADAM JUSTICE SPIVAK

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**McCARTHY TÉTRAULT LLP**  
Suite 5300, Box 48  
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File No.: 1103500

**THE QUEEN'S BENCH**  
**Winnipeg Centre**

THE HONOURABLE MADAM	)	THURSDAY, THE 12th
	)	
JUSTICE SPIVAK	)	DAY OF JULY, 2012

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

AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
ARCTIC GLACIER INCOME FUND, ARCTIC GLACIER INC.  
AND ARCTIC GLACIER INTERNATIONAL INC. and the  
ADDITIONAL APPLICANTS LISTED ON SCHEDULE "A"  
HERETO"

(collectively, the "**Applicants**")

APPLICATION UNDER THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C., c. C-36, AS AMENDED  
**CERTIFIED COPY**

**TRANSITION<sup>Of</sup> ORDER**

THIS MOTION, made by the Applicants for an order, among other things, approving the Transition Services Agreement among Arctic Glacier, LLC (formerly known as H.I.G. Zamboni, LLC) (the "**Original Purchaser**"), the Applicants and the Monitor, made as of July 12, 2012 and dealing with certain transition matters in respect of the Applicants, was heard this day at the Law Courts Building at 408 York Avenue, in The City of Winnipeg, in the Province of Manitoba.

ON READING the Affidavit of Keith McMahon sworn July 10, 2012 (the "July 10 Affidavit"), and the Fifth Report of Alvarez & Marsal Canada Inc. (the "**Monitor**") dated July 10, 2012 (the "**Fifth Report**"), and on hearing the submissions of counsel for the Monitor and counsel for the Applicants; counsel for the Purchaser, the Arctic Lenders, the US Direct Purchaser Antitrust Settlement Class and the Trustees of Arctic Glacier Income Fund also appearing, a representative of Talamod Master Fund L.P. also present by telephone, no one

appearing for any other person on the Service List, although properly served as appears from the affidavit of Corrine Smorhay sworn July 12, 2012, filed:

1. THIS COURT ORDERS that all capitalized terms used herein and not otherwise defined shall have the meaning ascribed thereto in the Transition Services Agreement (the "**Transition Services Agreement**") attached and marked as Exhibit\* to the July 10 Affidavit.

#### **SERVICE**

2. THIS COURT ORDERS that the time for service of the Notice of Motion, the July 10 Affidavit and the Fifth Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

#### **APPROVAL OF TRANSITION SERVICES AGREEMENT**

3. THIS COURT ORDERS AND DECLARES that the Transition Services Agreement is hereby approved, and the execution of the Transition Services Agreement by the Applicants and the Monitor is hereby authorized and approved, with such minor amendments as the Applicants, the Purchaser and the Monitor may deem necessary.

#### **TRANSITION POWERS OF THE MONITOR**

4. THIS COURT ORDERS that on and after the closing of the transactions contemplated by the Purchase Agreement (the "**Closing**"), the Monitor is authorized, but not required, in the name of and on behalf of the Applicants, to prepare and file various returns, remittances, statements, records or other documentation on behalf of Applicants, including but not limited to, tax returns, employee-related remittances, T4 statements, W2 and W3 forms and records of employment for the Applicants' former employees based solely upon information provided by the Applicants and on the basis that the Monitor shall incur no liability or obligation to any person or entity with respect to such returns, remittances, statements, records or other documentation.

5. THIS COURT ORDERS that on and after the Closing, the Monitor shall be at liberty to engage such persons or entities as the Monitor deems necessary or advisable respecting the exercise of its powers and performances under this Order and any other Order of this Honourable Court and to assist in facilitating the administration of these proceedings.

6. THIS COURT ORDERS that in addition to its prescribed rights in the CCAA and the powers granted by Orders of this Honourable Court, the Monitor is empowered and authorized, on and after the Closing, to take such additional actions and execute such documents, in the name of and on behalf of the Applicants, as the Monitor considers necessary or desirable in order to perform its functions and fulfill its obligations under this Order, any other Order of this Honourable Court or in connection with the Transition Services Agreement, or to assist in facilitating the administration of these proceedings.

7. THIS COURT ORDERS that, without limiting the provisions of the Initial Order, on and after the Closing, the Applicants shall remain in possession and control of the Property (as defined in the Initial Order), if any, which remains following the Closing and the Monitor shall not be deemed to be in possession and/or control of any such remaining Property.

8. THIS COURT ORDERS AND DECLARES that nothing in this Order shall constitute or be deemed to constitute the Monitor as a trustee, receiver, assignee, liquidator, administrator, receiver-manager, agent of the creditors or legal representative of any of the Applicants within the meaning of any relevant legislation.

9. THIS COURT ORDERS AND DECLARES that in addition to the rights and protections afforded the Monitor under the CCAA, any plan of arrangement and any Order of this Honourable Court, the Monitor shall not be liable for any act or omission on the part of the Monitor, or any reliance thereon, including without limitation, with respect to any information disclosed, any act or omission pertaining to the discharge of duties or obligations under any Order of this Honourable Court, in connection with the Transition Services Agreement or as otherwise requested by the Applicants, save and except for any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Monitor. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA, any other applicable legislation, the Initial Order or any other Order of this Honourable Court.

#### **TRANSITION POWERS OF THE CHIEF PROCESS SUPERVISOR**

10. THIS COURT ORDERS that notwithstanding anything to the contrary in the CPS Engagement Letter (as defined in the Initial Order), the Initial Order or any other Order of this Honourable Court, the CPS (as defined in the Initial Order) is hereby empowered and authorized,

but not required, on and after the Closing to take such additional actions as the Applicants or the Monitor, as applicable, considers necessary or desirable to assist (i) the Applicants in connection with the administration of these proceedings and (ii) the Monitor in performing the Monitor's functions and fulfilling its obligations under this Order, any other Order of this Honourable Court or in connection with the Transition Services Agreement.

11. THIS COURT ORDERS that the CPS shall continue to be paid its fees, expenses and any other amounts payable to the CPS under and pursuant to the CPS Engagement Letter after Closing until it is no longer necessary or desirable for the CPS to provide the assistance to the Applicants and Monitor as set out in this Order. Nothing in Order shall derogate from the protections afforded to the CPS by the Initial Order.

#### **AMENDED AND RESTATED VESTING AND APPROVAL ORDER**

12. THIS COURT ORDERS that the Canadian Vesting and Approval Order dated June 21, 2012 is hereby amended and restated in the form attached as **Schedule "1"** hereto.

#### **ADDITIONAL PROVISIONS**


13. THIS COURT ORDERS that the Fifth Report of the Monitor and the activities described therein are hereby approved.

14. THIS COURT ORDERS that the Applicants, the Purchaser or the Monitor may apply to this Honourable Court for advice and direction, or to seek relief in respect of, any matters arising from or under this Order.

15. 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, including the United States Bankruptcy Court for the District of Delaware, to give effect to this Order and to assist the Applicants, 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Monitor and its agents in carrying out the terms of this Order.

16. THIS COURT ORDERS that this Order shall have full force and effect in all provinces and territories in Canada.

July 12, 2012

A handwritten signature in dark ink, appearing to read "J. Spivak", is written over a horizontal line.

Spivak, J.

CERTIFIED A TRUE COPY

  
DEPUTY REGISTRAR

**SCHEDULE "A" - Additional Applicants**

Arctic Glacier California Inc.  
Arctic Glacier Grayling Inc.  
Arctic Glacier Lansing Inc.  
Arctic Glacier Michigan Inc.  
Arctic Glacier Minnesota Inc.  
Arctic Glacier Nebraska Inc.  
Arctic Glacier Newburgh Inc.  
Arctic Glacier New York Inc.  
Arctic Glacier Oregon Inc.  
Arctic Glacier Party Time Inc.  
Arctic Glacier Pennsylvania Inc.  
Arctic Glacier Rochester Inc.  
Arctic Glacier Services Inc.  
Arctic Glacier Texas Inc.  
Arctic Glacier Vernon Inc.  
Arctic Glacier Wisconsin Inc.  
Diamond Ice Cube Company Inc.  
Diamond Newport Corporation  
Glacier Ice Company, Inc.  
Ice Perfection Systems Inc.  
ICESurance Inc.  
Jack Frost Ice Service, Inc.  
Knowlton Enterprises, Inc.  
Mountain Water Ice Company  
R&K Trucking, Inc.  
Winkler Lucas Ice and Fuel Company  
Wonderland Ice, Inc.



Schedule 1

File No. CI 12-01-76323

**THE QUEEN'S BENCH**  
Winnipeg Centre

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR  
ARRANGEMENT WITH RESPECT TO ARCTIC GLACIER INCOME  
FUND, ARCTIC GLACIER INC. AND ARCTIC GLACIER  
INTERNATIONAL INC. and the ADDITIONAL APPLICANTS LISTED ON  
SCHEDULE "A" HERETO"

(collectively, the "Applicants")

APPLICATION UNDER THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

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**AMENDED AND RESTATED CANADIAN VESTING AND APPROVAL ORDER**  
DATE OF HEARING: THURSDAY, JUNE 21, 2012 AT 10 A.M.  
BEFORE THE HONOURABLE MADAM JUSTICE SPIVAK

---

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File No. 10671373

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**J.J. Burnell**  
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File No.: 1103500

**THE QUEEN'S BENCH**  
**Winnipeg Centre**

THE HONOURABLE MADAM	)	THURSDAY, THE 21 <sup>st</sup>
	)	
JUSTICE SPIVAK	)	DAY OF JUNE, 2012

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

AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
ARCTIC GLACIER INCOME FUND, ARCTIC GLACIER INC.  
AND ARCTIC GLACIER INTERNATIONAL INC. and the  
ADDITIONAL APPLICANTS LISTED ON SCHEDULE "A"  
HERETO"

(collectively, the "**Applicants**")

APPLICATION UNDER THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C., c. C-36, AS AMENDED

**AMENDED AND RESTATED CANADIAN VESTING AND APPROVAL ORDER**

THIS MOTION, made by the Applicants for an order, among other things, approving the sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement (the "**Asset Purchase Agreement**") between the Applicants and Glacier Valley Ice Company, L.P. (California) (together, the "**Vendors**"), as vendors, and H.I.G. Zamboni, LLC (now known as Arctic Glacier LLC), as purchaser, made as of June 7, 2012; vesting the Vendors' right, title and interest in and to the assets described in the Asset Purchase Agreement (the "**Assets**"), to Arctic Glacier LLC, Arctic Glacier Canada Inc. and Arctic Glacier U.S.A., Inc. (collectively, the "**Purchaser**"); and, extending the Stay Period defined in paragraph 30 of the Initial Order of the Honourable Madam Justice Spivak dated February 22, 2012 (the "**Stay Period**"), was heard this day at the Law Courts Building at 408 York Avenue, in The City of Winnipeg, in the Province of Manitoba.

ON READING the Affidavit of Keith McMahon sworn June 13, 2012 (the "**Affidavit**"), and the Fourth Report of Alvarez & Marsal Canada Inc. (the "**Monitor**") dated June 15, 2012 (the "**Fourth Report**"), and on hearing the submissions of counsel for the Monitor, the Applicants, the Purchaser, the Arctic Lenders, TD Bank and the US Direct Purchaser Antitrust Settlement Class, counsel for the Trustees of Arctic Glacier Income Fund also appearing, counsel for Centerbridge Partners L.P. appearing on a watching brief, representatives of Talamod Master Fund, L.P. and TD Securities Inc. also present in person or by telephone, and no one appearing for any other person, including the U.S. Department of Justice Antitrust Division and parties to Assigned Contracts that are being assigned pursuant to this Order, although properly served as appears from the Affidavit of Corrine Smorhay and the Affidavit of Kelly Peters, both sworn June 20, 2012, both filed:

1. THIS COURT ORDERS that all capitalized terms used herein and not otherwise defined shall have the meaning ascribed thereto in the Asset Purchase Agreement.

#### **SERVICE**

2. THIS COURT ORDERS that the time for service of the Notice of Motion, the Affidavit, the Fourth Report and the supporting materials is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

#### **SALE TRANSACTION**

3. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Asset Purchase Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors may deem necessary. The Vendors are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Assets to the Purchaser or such other person(s) as the Purchaser may direct and the Monitor may agree.
4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule "B" hereto (the "**Monitor's Certificate**");

- (a) all of the Vendors' right, title, benefit and interest in and to the Assets other than the Canadian Assets (as herein defined) (the "U.S. Assets"), including, without limitation, the Vendors' rights, title and interest in and to any applicable Assigned Contracts, including all leases of real property, shall vest, without further instrument of transfer or assignment, absolutely in Arctic Glacier U.S.A., Inc. or such other person(s) as the Purchaser may direct and the Monitor may agree (provided that no agreement will be required if such transfer is to an Affiliate that agrees to be jointly and severally liable with the Purchaser), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, pledges, options, warrants, trusts or deemed trusts (whether contractual, statutory, or otherwise), encumbrances, obligations, liabilities, demands, guarantees, restrictions, contractual commitments, rights, including without limitation, rights of first refusal and rights of set-off, liens, executions, levies, penalties, charges, or other financial or monetary claims, adverse claims, or rights of use, puts or forced sales provisions exercisable as a consequence of or arising from closing of the Transaction, whether arising prior to or subsequent to the commencement of these CCAA Proceedings, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured, legal, equitable, possessory or otherwise, actual or threatened civil, criminal, administrative, regulatory, arbitral or investigative inquiry, action, complaint, suit, investigation, dispute, petition or proceeding by or before any Governmental Authority or person at law or in equity whether imposed by agreement, understanding, law, equity or otherwise, and any claim or demand resulting therefrom including but not limited to Antitrust proceedings commenced by the U.S. Department of Justice and various State's Attorney Generals (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Spivak dated February 22, 2012 and any subsequent charges created by the Court (the "Court Charges"); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Manitoba) or any other personal property registry system; (iii) Excluded Liabilities as defined in the Asset Purchase Agreement; and (iv) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the U.S. Assets are hereby released, extinguished, expunged and discharged as against the U.S. Assets; and
- (b) all of Arctic Glacier Inc.'s right, title, benefit and interest in and to the Assets (the "Canadian Assets"), including, without limitation, the Vendors' rights, title and interest in and to any applicable Assigned Contracts, including all leases of real property, shall vest, without further instrument of transfer or assignment, absolutely in Arctic Glacier Canada Inc. or such other person(s) as the Purchaser may direct and the Monitor may agree (provided that no agreement will be required if such transfer is to an Affiliate that agrees to be jointly and severally liable with the Purchaser), free and clear of and from any and all Claims including, without limiting the generality of the foregoing: (i) any Court Charges; (ii) all charges, security interests or claims evidenced by registrations pursuant to

the Personal Property Security Act (Manitoba) or any other personal property registry system; (iii) Excluded Liabilities as defined in the Asset Purchase Agreement; and (iv) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "D") and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Canadian Assets are hereby released, extinguished, expunged and discharged as against the Canadian Assets.

5. THIS COURT ORDERS that upon the registration in the applicable land registry office or land titles office of a Transfer/Deed of Land or equivalent document, or of an application for registration of this vesting order in the applicable prescribed form, the applicable land registrar or equivalent official is hereby directed to enter the applicable Purchaser (or such other person(s) as the Purchaser may direct and the Monitor may agree) (provided that no agreement will be required if such transfer is to an Affiliate that agrees to be jointly and severally liable with the Purchaser) as the owner of the subject real property in fee simple, and is hereby directed to delete and expunge from title to the real property any and all Claims and Encumbrances, including, without limitation, all of the Claims and Encumbrances listed in Schedule "C" hereto.

6. THIS COURT ORDERS that upon delivery of the Monitor's Certificate all of the rights and obligations of the Vendors under the Assigned Contracts (as defined in the Asset Purchase Agreement) shall be assigned to the applicable Purchaser or such other person(s) as the Purchaser may direct and the Monitor may agree (provided that no agreement will be required if such transfer is to an Affiliate that agrees to be jointly and severally liable with the Purchaser) (the "Assignee") pursuant to section 2.12 of the Asset Purchase Agreement and pursuant to section 11.3 of the CCAA and remain in full force and effect for the benefit of the Purchaser in accordance with their respective terms.

7. THIS COURT ORDERS that the assignment of the rights and obligations of the Vendors under the Assigned Contracts to the Assignee pursuant to section 2.12 of the Asset Purchase Agreement and pursuant to this order is valid and binding upon all of the counterparties to the Assigned Contracts, without further documentation, as if the Assignee was a party to the Assigned Contracts, notwithstanding any restriction, condition or prohibition contained in any such Assigned Contracts relating to the assignment thereof, including any provision requiring the consent of any party to the assignment.

8. THIS COURT ORDERS that each counterparty to the Assigned Contracts is prohibited from exercising any right or remedy under the Assigned Contracts by reason of any defaults thereunder arising from these CCAA proceedings or the insolvency of the Vendors, or any failure of the Vendors to perform a non-monetary obligation under the Assigned Contracts, or as a result of any actions taken pursuant to or as a result of the Asset Purchase Agreement. All notices of default and demands given in connection with any such defaults under, or non-compliance with the Assigned Contracts shall be deemed to have been rescinded and shall be of no further force or effect.

9. THIS COURT ORDERS that as a condition of the closing of the Transaction, all existing monetary defaults in relation to the Assigned Contracts, other than those arising by reason of the Vendors' insolvency, the commencement of these CCAA Proceedings, or the Vendors' failure to perform a non-monetary obligation, shall be paid in accordance with section 2.12 of the Asset Purchase Agreement.

10. THIS COURT ORDERS that notwithstanding anything contained in this order, nothing shall derogate from the obligations of the Purchaser (or such other person(s) as the Purchaser may direct and the Monitor may agree) (provided that no agreement will be required if such transfer is to an Affiliate that agrees to be jointly and severally liable with the Purchaser) to assume the Assumed Liabilities, including the Assumed Accounts Payable, and to perform its obligations under the Assigned Contracts, as set out the Asset Purchase Agreement and the Designated Purchaser Agreement.

11. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Assets shall stand in the place and stead of the Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Assets with the same priority as they had with respect to the Assets immediately prior to the sale, as if the 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.

12. THIS COURT ORDERS that the Monitor shall, in accordance with the provisions of the SISF (as defined in the Affidavit), be authorized and directed to pay to the Arctic Lenders (as defined in the Asset Purchase Agreement) from the net proceeds of the sale of the Assets an

amount sufficient to pay the Lender Claims (as defined in the SISP and as calculated on the closing of the Transaction) in full and in cash, as specified in a pay-out letter to be provided by the Arctic Lenders on or before the closing of the Transaction. Such payment shall be made concurrently with, and as a condition precedent to, the closing of the Transaction. The balance of the net proceeds of the sale of the Assets shall be held by the Monitor in accordance with the terms hereof or any further order of the Court; provided that the Monitor may pay any amounts owing from time to time to persons who are entitled to the benefit of a Court Charge.

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

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and any equivalent legislation in any other jurisdiction applicable, the Vendors are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Vendors' records pertaining to the Vendors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendors.

15. 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 and of the Vendors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of and of the Vendors;

the vesting of the Assets in the Purchaser (or such other person(s) as the Purchaser may direct and the Monitor may agree) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendors and shall not be void or voidable by creditors of the Vendors, 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.

16. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and any equivalent legislation in any other jurisdiction in which all or any part of the Assets are located.

17. THIS COURT ORDERS AND DECLARES that nothing in this Order or the Asset Purchase Agreement discharges, releases, or precludes any environmental liability under United States law to the United States or any department, agency, or instrumentality thereof (each, a "U.S. Governmental Unit") of any entity based on its ownership or operation after the Time of Closing (as defined in the Asset Purchase Agreement) of real property. Nor shall anything in this Order enjoin or otherwise bar a U.S. Governmental Unit from asserting or enforcing, outside this Court, any liability described in the preceding sentence.

18. THIS COURT ORDERS that any interested party served with notice of this motion after Friday, June 15, 2012, including those additional parties identified by the Purchaser as parties to receive service after the issuance of this Order, may apply to this Court by notice of motion served on or before July 3, 2012 for hearing on July 12, 2012 to vary or amend this Order other than paragraph 12 hereof. Service on such parties in such manner is hereby validated. If no such application is brought on or before July 3, 2012, this Order shall be deemed effective, nunc pro tunc, and without such further right of comeback, as against such parties.

#### **STAY EXTENSION**

19. THIS COURT ORDERS that the Stay Period is hereby extended until and including September 14, 2012.

#### **MONITOR'S REPORT AND ACTIVITIES**

20. THIS COURT ORDERS that the Third Report of the Monitor dated May 14, 2012 and the Fourth Report and the activities described therein are hereby approved.



**SEALING**

21. THIS COURT ORDERS that the Confidential Appendix to the Fourth Report shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

22. 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, including the United States Bankruptcy Court for the District of Delaware, to give effect to this Order and to assist 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

23. THIS COURT ORDERS that this Order shall have full force and effect in all provinces and territories in Canada.

June 21, 2012

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J

#### **SCHEDULE "A" - Additional Applicants**

Arctic Glacier California Inc.  
Arctic Glacier Grayling Inc.  
Arctic Glacier Lansing Inc.  
Arctic Glacier Michigan Inc.  
Arctic Glacier Minnesota Inc.  
Arctic Glacier Nebraska Inc.  
Arctic Glacier Newburgh Inc.  
Arctic Glacier New York Inc.  
Arctic Glacier Oregon Inc.  
Arctic Glacier Party Time Inc.  
Arctic Glacier Pennsylvania Inc.  
Arctic Glacier Rochester Inc.  
Arctic Glacier Services Inc.  
Arctic Glacier Texas Inc.  
Arctic Glacier Vernon Inc.  
Arctic Glacier Wisconsin Inc.  
Diamond Ice Cube Company Inc.  
Diamond Newport Corporation  
Glacier Ice Company, Inc.  
Ice Perfection Systems Inc.  
ICESurance Inc.  
Jack Frost Ice Service, Inc.  
Knowlton Enterprises, Inc.  
Mountain Water Ice Company  
R&K Trucking, Inc.  
Winkler Lucas Ice and Fuel Company  
Wonderland Ice, Inc.

**Schedule B – Form of Monitor's Certificate**

**THE QUEEN'S BENCH  
Winnipeg Centre**

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

AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
ARCTIC GLACIER INCOME FUND, ARCTIC GLACIER INC.  
AND ARCTIC GLACIER INTERNATIONAL INC. and the  
ADDITIONAL APPLICANTS LISTED ON SCHEDULE "A"  
HERETO"

(collectively, the "Applicants")

**MONITOR'S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Madam Justice Spivak of the Manitoba Court of Queen's Bench (the "**Court**") dated February 22, 2012, Alvarez & Marsal Canada Inc. was appointed as the monitor (the "**Monitor**") in the Applicants' proceedings under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

B. Pursuant to an Order of the Court dated June 21, 2012 (the "**Canadian Vesting and Approval Order**"), the Court approved an asset purchase agreement made as of June 7, 2012 (the "**Asset Purchase Agreement**") between the Applicants and Glacier Valley Ice Company, L.P. (California) (together, the "**Vendors**"), as vendors, and H.I.G. Zamboni, LLC (now known as Arctic Glacier LLC), and provided for the vesting of all of the Vendors' right, title and interest in and to the Assets described in the Asset Purchase Agreement, including, without limitation, the Vendors' rights, title and interest in and to any Assigned Contracts (as defined therein), including all leases of real property in Arctic Glacier LLC, Arctic Glacier Canada Inc. and Arctic Glacier U.S.A., Inc. (collectively the "**Purchaser**"), which vesting is to be effective with respect to the Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the

payment by the Purchaser of the Purchase Price for the Assets; (ii) that the conditions to Closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Vendors and the Purchaser, respectively; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Asset Purchase Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Vendors have received the Purchase Price for the Assets payable on the Closing Date pursuant to the Asset Purchase Agreement;
2. The conditions to Closing as set out in the Asset Purchase Agreement have been satisfied or waived by the Vendors and the Purchaser, respectively; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor, and not in its personal or  
corporate capacity**

Per: \_\_\_\_\_

Name:

Title:

**Schedule C – Claims to be deleted and expunged**

**REAL PROPERTY ENCUMBRANCES TO BE DISCHARGED**

**A. OWNED PROPERTY**

**1. 12132 & 12136 - 121 A Street, Edmonton, Alberta, T5L 0A4**

**(a) Title No.: 012 170 358**

**Legal Description:** Plan RN64, Block 24, Lot 8 excepting thereout the Westerly 10 feet throughout of the said lot, excepting thereout all mines and minerals.

**Municipality:** City of Edmonton

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type/ Description	From/By
992 255 839	27/08/1999	Mortgage	Montreal Trust Company

**(b) Title No.: 012 170 700**

**Legal Description:** Plan RN64, Block 24, Lots 9 and 10 excepting thereout the most Westerly 10 feet in uniform width throughout said lots, taken for lane, as shown on Road Plan 2199NY excepting thereout all mines and minerals.

**Municipality:** City of Edmonton

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type/ Description	From/By
992 255 839	27/08/1999	Mortgage	Montreal Trust Company

**2. 412 - 41 Avenue N.E. Calgary, Alberta, T2E 2N3**

**(a) Title No.: 981 406 325**

**Legal Description:** Plan Calgary 7410938, Block 13, that portion of Lot "A", which lies to the west of the easterly Fifty Four and Thirty Hundredths (54.30) metres in perpendicular width throughout containing 0.203 hectare more or less, excepting thereout all mines and minerals

**Municipality:** City of Calgary

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type/ Description	From/By
991 250 891	31/08/1999	Mortgage	Montreal Trust Company

**3. 625 Henry Avenue, Winnipeg, Manitoba, R3A 0B1**

**(a) Winnipeg Land Titles Office Title No.: 2028565/1**

**Legal Description:** Parcels A to E Plan 42917 WLTO

Said Parcel A being together with a right-of-way for all purposes and as appurtenant to the land above described over and upon Parcel 2 Plan 2547 WLTO in RL 35 Parish of St. John.

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type/ Description	From/By
2410597/1	1999/08/25	Mortgage	Montreal Trust Company

**(b) Winnipeg Land Titles Office Title No.: 2030254/1**

**Legal Description:** Firstly: Lot 3 and all those portions of Lots 1 and 2 Block 41 Plan No. 331 WLTO (W Div) lying to the NW of those portions of said Lots 1 and 2 shewn as Parcel 2 Plan No. 2547 WLTO Lot 35 Parish of St. John

Secondly: All those portions of said Lots 1 and 2 shewn as Parcel 2 on said Plan No. 2547 WLTO subject to a right-of-way for all purpose and as appurtenant to that portion of said Lot 1, lying to the SE of said Parcel 2 and appurtenant to Block 7 Plan 94 WLTO (W Div) over and upon the whole of said Parcel 2.

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type/ Description	From/By
3075752/1	2004/12/10	Mortgage	Computershare Trust Company of Canada

**(c) Winnipeg Land Titles Office Title No.: 2030253/1**

**Legal Description:** ELY 20 feet of Lot 4 Block 41 Plan 331 WLTO (W Div) in RL 35 Parish of St John.

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type/ Description	From/By
3075752/1	2004/12/10	Mortgage	Computershare Trust Company of Canada

**4. 200 Statesman Drive, Mississauga, Ontario, L5S 1X7**

**(a) Land Registry Office #43, Parcel Register for Property Identifier: 14029-1139 (LT)**

**Legal Description:** Parcel Block 33-1, Section 43M-957; Block 33, Plan 43M957, together with Part Lot 11, Concession 1, East of Hurontario Street, Part 4, Plan 43R16717 as in TT81032; subject to LT1098087 Mississauga

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type	Description
LT1098091Z	1990/02/12	Application to Annex Restrictive Covenants	Lostrack Corp.
LT1979090	1999/08/23	Charge	From 1179554 Ontario Inc. to Montreal Trust Company
PR180019	2001/12/14	Transfer	From 1394332 Ontario Inc. to The Arctic Group Inc.
PR255417	2002/06/04	APL Ch Name Owner	From The Arctic Group Inc. to Arctic Glacier Inc.

**5. 6 McKinstry Street, Hamilton, Ontario, L8L 6C1**

**(a) Land Registry Office #62, Parcel Register for Property Identifier: 17192-0005 (LT)**

**Legal Description:** Part Reserve 3, Survey 32, as in AB319263; Part Reserve 3, Survey 32, Part 1, 62R9795; Part Reserve 3, Survey 32, Part 2, 62R7060, except Part 1, 62R7413; Reserving Minerals in CD306923; together with access over Part 1 on 62R7413, as in CD305159; Hamilton

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type	Description
LT566928	1999/08/23	Deed Trust Mort	From 1334202 Ontario Inc. to Montreal Trust Company
WE70318	2001/12/13	Transfer	From 1394332 Ontario Inc. to The Arctic Group Inc.
WE98279	2002/06/04	APL Ch Name Owner	From The Arctic Group Inc. to Arctic Glacier Inc.

**6. 745 Park Avenue W., Chatham, Ontario, N7M 1X3**

**(a) Land Registry Office #24, Parcel Register for Property Identifier: 00527-0044 (LT)**

**Legal Description:** Part of Lot 20, Concession 1 Eastern Boundary Raleigh as in 590170, except Part 1, 24R6402; together with 590170; subject to 495938, 495939; Chatham-Kent

**Registered Owner:** Arctic Glacier Inc.

**Encumbrances:**

Registration No.	Date	Instrument Type	Description
593547	1999/08/23	Deed Trust Mort	From 1334202 Ontario Inc. to Montreal Trust Company
595536	1999/11/04	Deed Trust Mort	From 1334202 Ontario Inc. to Montreal Trust Company
612238	2001/12/12	Transfer	From 1394332 Ontario Inc. to The Arctic Group Inc.
CK43065	2010/02/18	APL Ch Name Owner	From The Arctic Group Inc. to Arctic Glacier Inc.
CK43433	2010/03/03	APL (General)	Arctic Glacier Inc.

**7. 2655 – 2677 Reading Street, Montreal, Quebec, H3K 1P6**

- (a) **Description:** An immovable property fronting on Reading Street, in the City of Montreal, Province of Quebec, known and designated as lot number ONE MILLION THREE HUNDRED AND EIGHTY-TWO THOUSAND THREE HUNDRED AND FIFTY-FIVE (1 382 355) of the Cadastre of Quebec, Registration Division of Montreal.

With the building thereon erected bearing civic numbers 2655, 2675 and 2677 Reading Street, City of Montreal, Province of Quebec.

**Registered Owner:** Arctic Glacier Inc. Deed of Transfer registered under number 5 293 999 on October 12, 2001.



**Hypothecs and Encumbrances:**

- i. Deed of Hypothec and Issue of Bonds executed before Mtre. Jean Mousseau, Notary, on August 19, 1999 and registered on August 20, 1999 under number 5 118 118 by 3149030 Canada Limited in favour of Montreal Trust Company for an amount of \$ 500,000,000.00 bearing interest at the rate of 25% per annum and an additional hypothec in the amount of \$100,000,000.
- ii. Deed of Hypothec and Issue of Bonds executed before Mtre. Steve Collins, Notary, on March 22, 2002 and registered on the same day under number 5 331 878 by Arctic Glacier Inc. in favour of Computershare Trust Company of Canada for an amount of \$ 500,000,000.00 bearing interest at the rate of 25% per annum.
- iii. Supplemental Deed of Hypothec executed before Mc Tamar Chamelian, Notary, on February 8, 2010 and registered on the same day under number 16 919 886 by Arctic Glacier Inc. in favour of Computershare Trust Company of Canada for an amount of \$ 500,000,000.00 bearing interest at the rate of 25% per annum.

**8. 2760 Reading Street, Montreal, Quebec, H3K 1P6**

- (a) **Description:** An immovable property fronting on Reading Street, in the City of Montreal, Province of Québec, known and designated as lot number ONE MILLION THREE HUNDRED AND EIGHTY-TWO THOUSAND THREE HUNDRED AND THIRTEEN (1 382 313) of the Cadastre of Québec, Registration Division of Montreal.

With a building thereon erected bearing civic number 2760 Reading Street, City of Montreal, Province of Québec.

**Registered Owner:** Arctic Glacier Inc. Deed of Transfer registered under number 5 293 999 on October 12, 2001.

**Hypothecs and Encumbrances:**

- i. Deed of Hypothec and Issue of Bonds executed before Mtre. Jean Mousseau, Notary, on August 19, 1999 and registered on August 20, 1999 under number 5 118 118 by 3149030 Canada Limited in favour of Montreal Trust Company for an amount of \$ 500,000,000.00 bearing interest at the rate of 25% per annum and an additional hypothec in the amount of \$100,000,000.
- ii. Deed of Hypothec and Issue of Bonds executed before Mtre. Steve Collins, Notary, on March 22, 2002 and registered on the same day under number 5 331 878 by Arctic Glacier Inc. in favour of Computershare Trust Company of Canada for an amount of \$ 500,000,000.00 bearing interest at the rate of 25% per annum.
- iii. Supplemental Deed of Hypothec executed before Me Tamar Chamelian, Notary, on February 8, 2010 and registered on the same day under number 16 919 886 by Arctic Glacier Inc. in favour of Computershare Trust Company of Canada for an amount of \$ 500,000,000.00 bearing interest at the rate of 25% per annum.

## B. LEASED PROPERTY

### 1. 9679 (also known as 9669) 186<sup>th</sup> Street, Surrey, British Columbia, V4N 3N8

#### (a) New Westminster Land Title Office Title No.: AA60615E

**Legal Description:** Parcel Identifier: 007-144-431. Lot A (AA60615) District Lot 99 Group 2 New Westminster District Plan 54762.

**Registered Owner:** Shogun Compu-Time Ltd.

#### Encumbrances:

Registration No.	Date	Instrument Type/ Description	From/By
BT97364 (of Lease BT97363)	2002-03-25	Mortgage, transferred to BT130238	Computershare Trust Company of Canada (Inc. No. A52313)

### 2. 1625 McAra Street, Regina, Saskatchewan, S4N 6H4

#### (a) Title No.: 139229321

**Legal Description:** Lot K Blk/Par 96 Plan No. 87R08061 Extension 0 as described on Certificate of Title 87R08068.

**Registered Owners:** Cynthia Hughes, James Hughes, Darlene Panchuk and Clayton Panchuk

#### Encumbrances:

Interest No./ Int. Register No.	Date	Instrument Type/ Description	From/By
151304183 100851612	26 May 1998	Personal Property Security Interest	RoyNat
151304172 100851601	26 Aug 1999	Personal Property Security Interest	Montreal Trust Company
153713718 117035883	17 Dec 2010	Mortgage of Lease	Arctic Glacier Inc. to Computershare Trust Company of Canada
153736768 117041914	21 Dec 2010	Mortgage of Lease	Arctic Glacier Inc. to Computershare Trust Company of Canada

#### (b) Title No.: 139229376

**Legal Description:** Lot K Blk/Par 96 Plan No. 87R08061 Extension 0 as described on Certificate of Title 87R08068.

**Registered Owners:** Cynthia Hughes, James Hughes, Darlene Panchuk and Clayton Panchuk

#### Encumbrances:

<b>Interest No./ Int. Register No.</b>	<b>Date</b>	<b>Instrument Type/ Description</b>	<b>From/By</b>
151304251 100851612	26 May 1998	Personal Property Security Interest	RoyNat
151304240 100851601	26 Aug 1999	Personal Property Security Interest	Montreal Trust Company
153713729 117035883	17 Dec 2010	Mortgage of Lease	Arctic Glacier Inc. to Computershare Trust Company of Canada
153736779 117041914	21 Dec 2010	Mortgage of Lease	Arctic Glacier Inc. to Computershare Trust Company of Canada

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

1. Reservations, limitations, provisos and conditions expressed in any original grant from any Governmental Authority.
2. Liens for Taxes, local improvements, assessments or governmental charges or levies not at the time due or delinquent.
3. Applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, other agreements, building and other restrictions, easements, servitudes, rights of way and licences affecting the use or value of the Lands which do not materially impair the use or value of the Lands affected thereby as presently used.
4. Defects or irregularities in title to the Lands affecting the use or value of the Lands which do not materially impair the use or value of the Lands affected thereby as presently used.
5. Any matters which might be revealed by (i) an up-to-date survey of any Lands; or (ii) an inspection and/or site investigation of any owned Lands together with any errors in the survey, which do not materially impair the use or value of the Lands affected thereby as presently used.
6. Any rights of expropriation, access or use, or any other similar rights conferred or reserved by or in any statute of Canada or any province or territory thereof or of the United States or any state, jurisdiction, territory or possession thereof.
7. Undetermined, inchoate or statutory Liens (including the Liens of public utilities, workers, suppliers of materials, builders, contractors, architects and unpaid vendors of moveable property) incidental to the current operation of the Lands which relate to obligations not yet due or delinquent and which have not been registered in accordance with Applicable Law.

**TAB C**

## Industry One Realty Corp

707 Broadhollow Rd, Suite 30, Farmingdale, NY 11735 - Phone: 631.694.3500 - Fax: 631.694.3509

### LISTING AGREEMENT

This Agreement is between INDUSTRY ONE REALTY CORP (BROKER), and ARCTIC GLACIER NEW YORK INC. (OWNER), in connection with the sale of the property located at 50 Stewart Ave, Huntington, NY 11743 (Section 072, Block 02, Lot 011) (PROPERTY).

ARCTIC GLACIER NEW YORK INC. represents that it is the OWNER of the PROPERTY.

It is agreed that the BROKER has for a period of six (6) months from the date of execution, been granted by OWNER the exclusive right to sell the PROPERTY (EXCLUSIVE LISTING). Either party has the right to terminate this Agreement at any time after the EXCLUSIVE LISTING period upon 15 days written notice to the other party to be delivered by way of certified mail, RRR. If this Agreement is not terminated by either party after the EXCLUSIVE LISTING period it shall automatically terminate on the 365<sup>th</sup> day from its date of execution. The sale price and terms of sale are not expressly stated herein since they are at all times subject to the approval of the OWNER.

If a purchase and sale transaction is successfully concluded the BROKER shall be paid a commission equal to 5% (COMMISSION) of the purchase price.

The BROKER will cooperate fully with other Brokerages and if a purchaser is procured by an outside Brokerage then the COMMISSION will be shared equally between the two Brokerages.

The COMMISSION is to be paid out of the proceeds of the sale at the time of closing of title Payable by Bank or Attorney Check.

The OWNER will furnish the BROKER with a photocopy of the executed contract of purchase and sale which will identify the BROKER as the sole broker involved in the transaction unless an outside Brokerage procures a purchaser, as outlined above.

At the termination of this Agreement the BROKER will furnish the OWNER with a list of customers that have been offered the PROPERTY. In the event a purchase and sale transaction is consummated with any of those customers within six months from the termination of this EXCLUSIVE LISTING, then the BROKER will be compensated pursuant to this Agreement. Notwithstanding the foregoing, BROKER and OWNER agree that there are two (2) customers who have been offered the PROPERTY and should a purchase and sale transaction be consummated with either of these customers, commission will be reduced as follows: with Jeff Carbone of Huntington, NY (or a company affiliated with Jeff Carbone) commission equal to 1.5% of the purchase price or with The Engel Burman Group of Garden City, NY (or a company affiliated with The Engel Burman Group), commission equal to 3% of the purchase price. The BROKER will act as the liaison with these customers and make best attempts to facilitate a sale transaction with them in the interest of the OWNER.

This Agreement is binding upon the parties hereto and upon their respective successors, heirs and assigns.

INDUSTRY ONE REALTY CORP

ARCTIC GLACIER NEW YORK INC

Mario Asano

BROKER

5/26/2011

dated

[Signature]

OWNER

May 26, 2011  
dated

Mario Asano

Name Printed

Keith W. McMahon

Name Printed

## **TAB D**

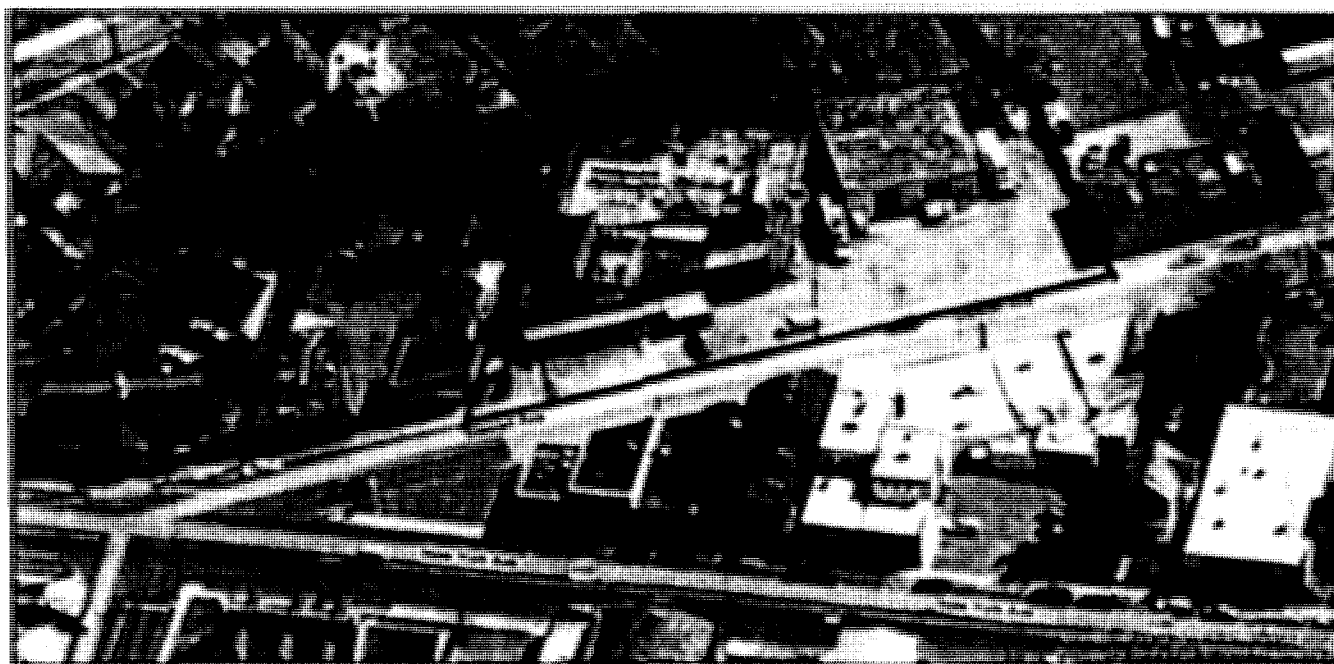


# IndustryOne.com



**Specialists in Office, Industrial, & Commercial Real Estate • Since 1985 • Industry One-Gets it Done**

## **For Sale:** Potential Re-Development Site ► 50 Stewart Ave, Huntington, NY



**Sale Price: \$1,450,000.00**  
**Taxes: \$27,504.28(2010)**

**For Information Contact: Exclusive Brokers**

**Mario Asaro - President**  
**Bob Misa - Senior Director**

Office: 631-694-3500  
[masaro@industryone.com](mailto:masaro@industryone.com)  
[rmisa@industryone.com](mailto:rmisa@industryone.com)

**Industry One Realty Corp**  
707 Broadhollow Rd, Suite 30  
Farmingdale, NY. 11735

### **PROPERTY DESCRIPTION:**

- ◆ 30,019sf Plot
- ◆ 10,094sf Main Building, Block Construction, 18ft Clear
- ◆ 3,540sf Secondary Building Block Construction 15ft High
- ◆ 262.49ft of Frontage
- ◆ Visible from New York Avenue

### **ZONING INFO:**

C-6 Zoning (Commercial) 072-02-11  
Buildable to 3 Stories  
No Setback Requirements

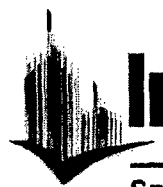
### **POSSIBLE USAGES:**

Retail, Office Complex, Apartment Complex,  
Municipal Parking

**Industry One Realty**  
is a member of:



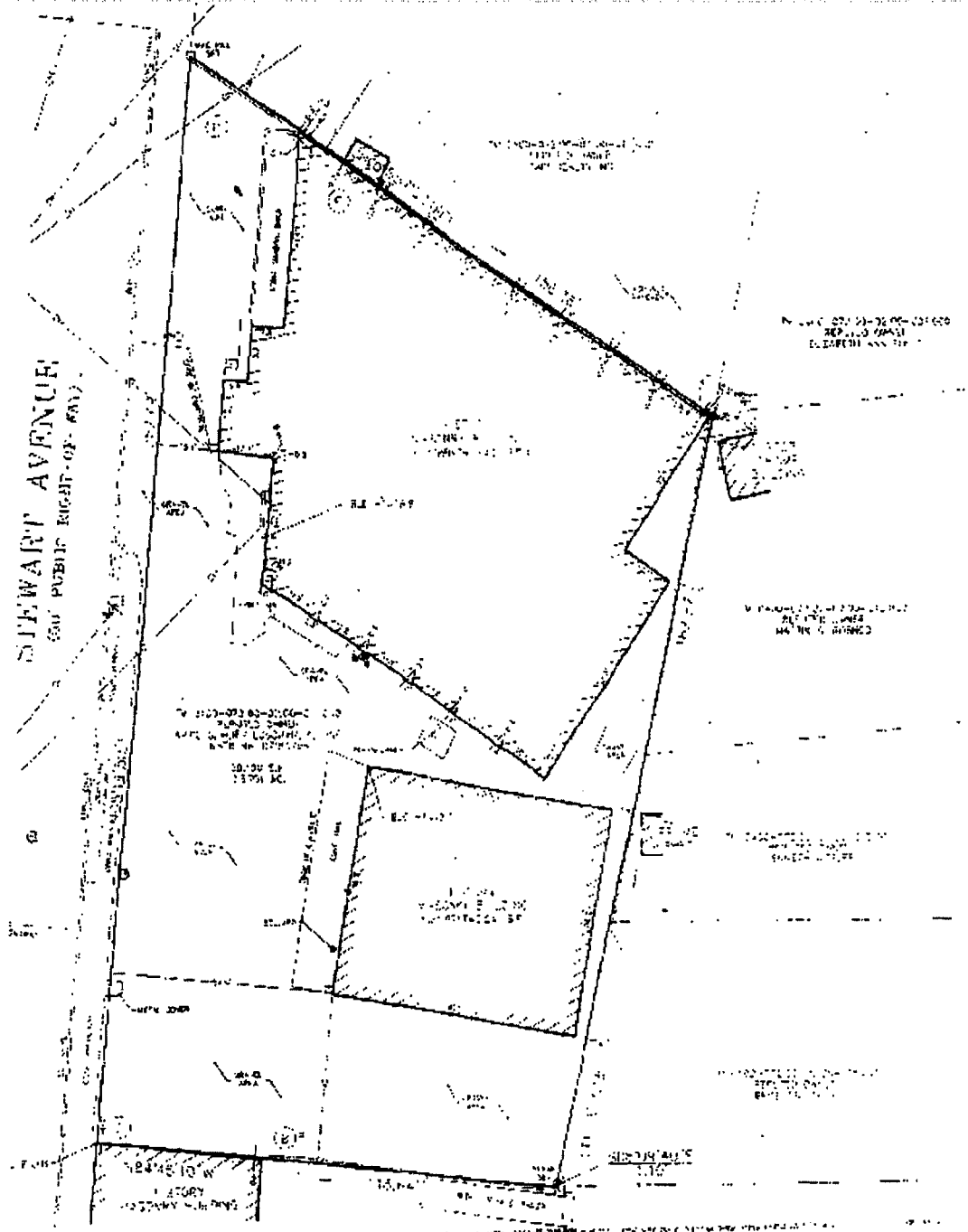
All information submitted is subject to errors, omissions, change of price or rental, change and other conditions, prior sale, lease or withdrawal without notice. All areas and dimensions are approximate.



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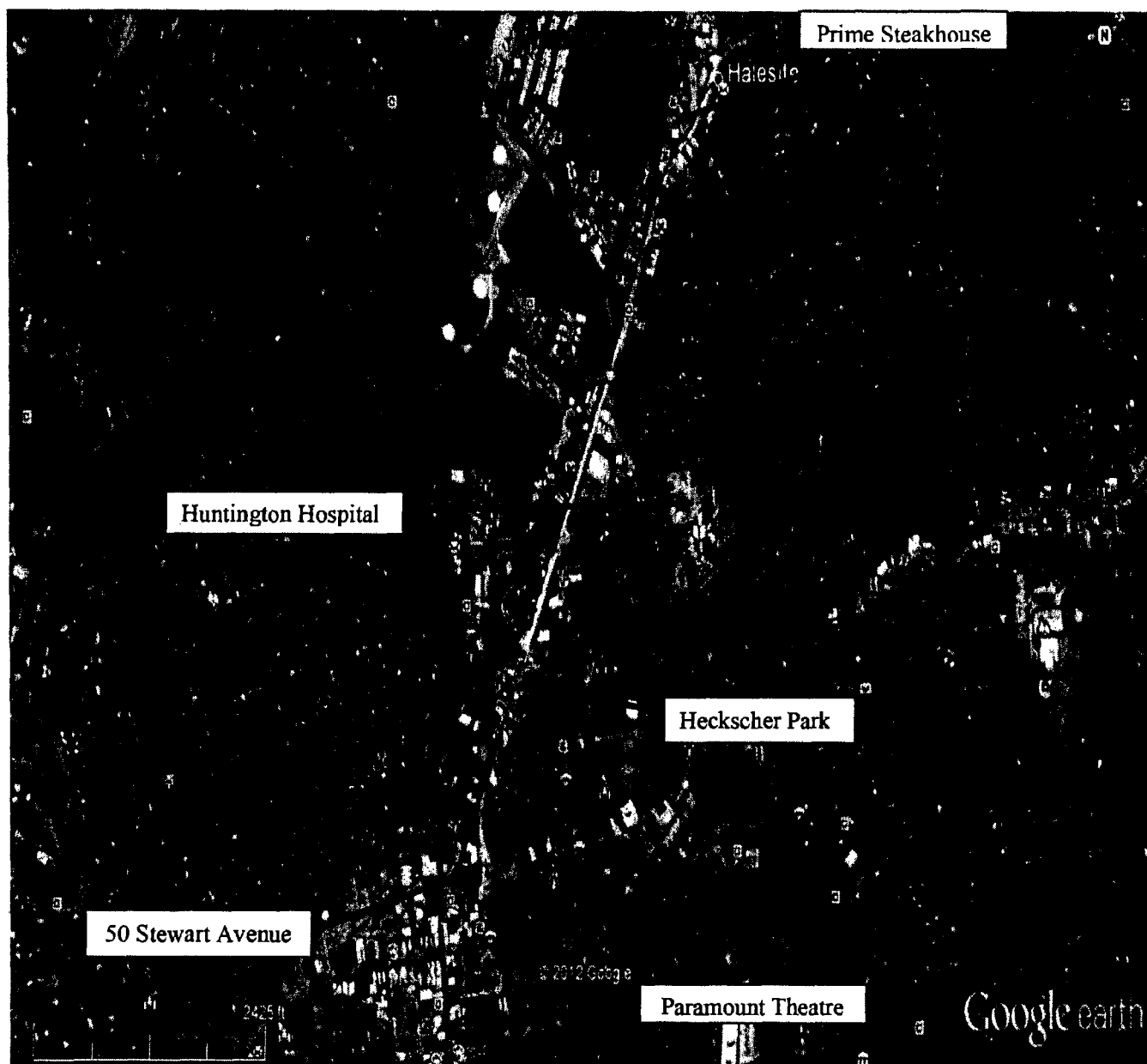




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**LIA**  
Long Island Association

**LIMBA**  
Long Island Multiple Listing Service

**MELVILLE**  
ESTABLISHED IN 1946

All information submitted is subject to errors, omissions, change of price or rental, change and other conditions, prior sale, lease or withdrawal without notice. All areas and dimensions are approximate.

# **TAB E**

## PURCHASE AND SALE AGREEMENT

AGREEMENT made this 6<sup>th</sup> day of July, 2012 by and between Peter J. Pastorelli, Sr., having an address at 17 Green Street, Huntington, NY 11743 (hereinafter referred to as the "Buyer") and ARCTIC GLACIER NEW YORK INC., a New York corporation, having an address at 625 Henry Avenue, Winnipeg, Manitoba, Canada R3A0V1 (hereinafter called the "Seller"). The "Effective Date" shall be the date that a counterpart of the Agreement signed by the Seller (that has already been signed by the Buyer) shall be received back in the offices of the Buyer's attorneys.

A. Seller and certain of its affiliates (collectively, "Arctic Glacier") commenced proceedings under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended ("CCAA") and were granted an order (the "Initial Order") of the Court of Queen's Bench (Winnipeg Centre) (the "Canadian Court") on February 22, 2012.

B. The Initial Order, among other things, imposed a stay of proceedings against the creditors of Arctic Glacier. Pursuant to the Initial Order, Alvarez & Marsal Canada Inc. was appointed Monitor (the "Monitor") of the business and financial affairs of Arctic Glacier.

C. On February 23, 2012, the Monitor, in its capacity as foreign representative of Arctic Glacier, commenced ancillary proceedings in the United States Bankruptcy Court for the District of Delaware (the "US Bankruptcy Court") under Chapter 15 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, as amended, seeking recognition of the CCAA proceedings as foreign main proceedings, and to give effect to the Initial Order in the United States. On March 16, 2012 the United States Bankruptcy Court granted an order, among other things, recognizing the CCAA proceedings as foreign main proceedings and giving effect to the Initial Order in the United States on a final basis.

D. Subject to (i) the approval of the Monitor in light of the proceedings under the CCAA, (which Seller shall evidence in writing to Buyer prior to, simultaneously with, or within three (3) business days after, the Effective Date, otherwise this Agreement shall be null and void for all purposes), (ii) receipt of an order of the Canadian Court approving this transaction as provided herein (the "Canadian Order"), and (iii) receipt of an order of the US Bankruptcy Court recognizing the Canadian Order and extending the "free and clear" provisions of section 363 of title 11 of the United States Code (the "Bankruptcy Code") to the sale as permitted by and provided in chapter 15 of the Bankruptcy Code (the "US Order"), and collectively with the Canadian Order, the "Orders", Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, certain real property and personal property on the terms and conditions hereinafter set forth.

## ARTICLE I SALE OF PROPERTY

Seller agrees to sell and convey and Buyer agrees to purchase, subject to the terms and conditions of this Agreement: (i) all that certain piece, parcel or tract of land located at 50 Stewart Avenue, Huntington, County of Suffolk and State of New York, known by the tax lot address of District 0400, Section 072, Block 02 and Lot 011, and more fully described on

Exhibit "A" annexed hereto (the "Land"); (ii) all right, title and interest, if any, of the Seller in and to any land lying in the bed of any street, road or avenue (open or proposed) in front of or adjoining said premises to the centerline thereof; (iii) subject to and in accordance with Section 17 below, all right, title and interest, if any, of the Seller in and to any award made or to be made in lieu thereof and in and to any unpaid award for damage to said premises by reason of change of grade of any street; (iv) all right, title and interest of Seller in and to all easements, tenements, strips, gores, hereditaments, agreements, privileges and appurtenances in any way belonging to the Land; and (v) any buildings, structures, fixtures and improvements on the Land (the "Improvements") (the foregoing items (i) through (v) being, collectively, the "Subject Premises"); together with all right, title and interest, if any, of the Seller in and to the tangible personal property, including any trade fixtures, equipment or similar property, located upon the Land or within the Improvements on the Closing Date, as hereinafter defined (the "Personal Property").

## ARTICLE II PURCHASE PRICE

The purchase price ("Purchase Price") for the Subject Premises and Personal Property is \$1,100,000.00 U.S. Dollars, which shall be payable as follows:

(a) An amount equal to \$110,000.00 (the "Deposit") by certified check or wire transfer of immediately available funds to a reputable title insurance company (selected by the Monitor and reasonably acceptable to Buyer) in its capacity as escrow agent (the "Escrow Agent"), within two (2) business days of the later of the Effective Date or the Buyer's receipt of written notice that the Monitor has approved this Agreement. The Deposit shall be held in escrow by Escrow Agent in an interest bearing account and shall be paid to Seller on the Closing Date (as hereinafter defined) or as liquidated damages upon Buyer's default hereunder, unless Buyer is entitled to a refund thereof pursuant to the terms of this Agreement, in which event the Deposit and accrued interest thereon shall be paid over to Buyer. If at the time of Buyer's default, if any, the Second Deposit has not yet been delivered to Escrow Agent, the Initial Deposit shall be paid over to Seller, and Buyer shall remain liable to Seller for damages in an amount equal to the Second Deposit required hereunder; and

(b) The remainder of the Purchase Price, plus or minus the apportionments and adjustments authorized by this Agreement, on the Closing Date by certified check or wire transfer of immediately available funds to Escrow Agent.

## ARTICLE III TITLE AND CONVEYANCE

**Section 3.1** On the Closing Date, the Subject Premises shall be conveyed by Bargain and Sale Deed with Covenants Against Grantor's Acts (the "Deed") in proper form for recording, which shall be properly executed and acknowledged so as to convey to Buyer a good, marketable and insurable fee simple title to the Subject Premises, such title to be free, clear and unencumbered subject only to the following:

(a) Real estate taxes, water charges and sewer rents and vault taxes not yet due and payable as of the Closing Date;

(b) Rights, if any, of utility companies to operate and maintain lines, cables, pipes, poles and distribution boxes in, over and upon the Subject Premises in effect as of the Effective Date;

(c) The state of facts shown on the survey of the Subject Premises, dated March 11, 2010, prepared by Landco, L.P., a copy of which is annexed hereto as Exhibit "B", as the same shall be updated, at Buyer's cost, provided said update shall not render title unmarketable;

(d) Building and zoning laws, and all municipal and governmental restrictions, ordinances, codes and regulations affecting the Subject Premises, and all amendments and additions thereto now or which will be in force and effect on the Closing Date, provided the same does not prohibit the maintenance and/or continued use of the Subject Premises as the same presently exists; and provided that the Subject Premises be conveyed free and clear of any notices of violation which are issued after the end of the Due Diligence Period (it being understood that if any such violations are so issued, Buyer's only remedy shall be to (i) terminate this Agreement and receive a return of the Deposit if Seller cannot remedy such violation prior to the Closing or (ii) accept such violations and proceed to Closing without reduction in the Purchase Price);

(e) Utility easements, agreements, covenants and restrictions of record affecting the Subject Premises in effect as of the Effective Date, provided the same does not prohibit the maintenance and/or continued use of the Subject Premises as the same presently exists;

(f) Any matters affecting title hereafter suffered or created with the consent of Buyer (Items (i) through (vi) being hereinafter referred to collectively as the "Permitted Exceptions").

**Section 3.2** Title to the Subject Premises shall be good and marketable and insurable as such by Escrow Agent or any other reputable title insurance company licensed to do business in the State of New York (the "Title Company"), subject only to (i) Permitted Exceptions and (ii) such other matters as the Title Company shall be willing to omit as an exception to coverage without the payment of an additional premium.

**Section 3.3** On the Closing Date, the Personal Property, if any, shall be conveyed to Buyer by bill of sale (the "Bill of Sale").

#### ARTICLE IV APPORTIONMENTS AND ADJUSTMENTS

**Section 4.1** Apportionment for the following items shall be made between the parties at the Closing as of 11:59 P.M. of the day preceding the Closing Date:

(a) Real estate taxes and assessments, on the basis of the fiscal period for which assessed. If the Closing shall occur before a new tax rate is fixed, the apportionment of taxes at the Closing shall be upon the basis of the tax rate for the preceding period applied to the latest assessed valuation, which shall be deemed final for purposes hereof. If an application has been made or a proceeding instituted by Seller for the reduction or review of the assessed valuation of the Subject Premises for the fiscal year in which the closing of title occurs, and if the assessed valuation is so reduced pursuant to such application or proceeding, whether by settlement or otherwise, it is understood that any tax savings or refund, less attorneys' fees and expenses, shall be apportioned, computed upon the same basis of the apportionment of taxes as herein provided. If any such application has been filed or shall be filed by Seller with respect to the next succeeding tax year, Buyer shall bear the cost for any reduction granted but payable only out of the reduction granted and shall be entitled to the full net benefit resulting from such application or proceeding, whether by means of settlement or otherwise. Any tax savings or refund for any fiscal years which end prior to the fiscal year in which the closing of title occurs shall be the sole and absolute property of Seller, and if received by Buyer, shall be promptly delivered to Seller (which obligation shall survive the Closing).

(b) Water rates, water meter charges and sewer rents, if any, on the basis of the fiscal period for which assessed. If there be a water meter, or meters, on the Subject Premises, the unfixed meter charges and the unfixed sewer rent thereon based for the time intervening from the date of the last reading shall be apportioned on the basis of such last reading, and shall be appropriately readjusted after the Closing on the basis of the next subsequent bills. Seller shall obtain a final actual water meter reading within thirty (30) days prior to the date of Closing.

**Section 4.2** The parties shall also make all other adjustments as are usual in a real estate settlement in accordance with the customs and practice for title closings (including but not limited to adjustments for gas, electric and other applicable utility charges), except if specifically set forth to the contrary herein.

**Section 4.3** At or prior to Closing, Seller shall pay all charges for any water meters.

**Section 4.4** Any discrepancy resulting from any errors or omissions in computing any apportionments at Closing, shall be promptly corrected, which obligations shall survive the Closing for a period of six (6) months.

## **ARTICLE V REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF SELLER AND BUYER**

**Section 5.1** Seller represents and warrants to Buyer that:

(a) Seller is a corporation duly formed and validly existing under the laws of the State of New York.

(b) The execution, delivery and performance of this Agreement on behalf of the Seller have been duly authorized, and the person executing this Agreement on the part of the Seller has the authority to do so.

(c) The performance of this Agreement will not result in any violation of, or will not be in conflict with, or will not constitute a default under, any corporate charter, certificate of incorporation, by-law, mortgage, indenture, contract, permit, judgment, decree, order, statute, rule or regulation, applicable to Seller, and no approval, consent, order or authorization by any third party is required in connection with the execution and delivery of and compliance with this Agreement by Seller.

(d) Seller is not a "foreign person" as defined in the Internal Revenue Code Withholding Section.

(e) Seller has not received written notice of any condemnation or taking of the Subject Premises, has no actual knowledge of any pending or threatened condemnation or taking, and no condemnation or taking has occurred during Seller's ownership of the Subject Premises.

(f) There are no management, service, equipment, supply, security, maintenance, concession or other agreements with respect to or affecting the Subject Premises which cannot be terminated with thirty (30) days' notice (or less) (herein collectively called "Service Agreements").

**Section 5.2** Buyer has made or shall make during the Due Diligence Period such examination of the Subject Premises and Personal Property and all other matters and documents affecting or relating to the physical condition of the Subject Premises and Personal Property as Buyer has deemed necessary, is fully familiar with the physical condition and state of repair thereof, and shall accept them "as is, where is" and in their present condition "with all faults", and Buyer shall assume all liability and responsibility with respect thereto from and after Closing. Buyer further expressly waives any and all claims of any sort against Seller relating to environmental conditions of the property or fitness for a particular use, including but not limited to any claims for response costs, contribution or any other liability under the federal Comprehensive Environmental Remediation Compensation and Liability Act (commonly known as "Superfund", 42 U.S.C. § 9600 *et seq.*, and any and all other federal, state and local laws, including common law, relating to environmental clean-up. Buyer acknowledges that, except as expressly set forth in Section 5(a) above, Seller has not made any representation or warranty, whether express or implied, with respect to (i) the physical condition or state of repair of the Subject Premises or Personal Property (including any warranties which may be deemed made at law the benefit of which, if any, Buyer hereby waives), (ii) the use, merchantability, design, quality, description, durability, operation or fitness for use of the Subject Premises or Personal Property, (iii) the quality of the Subject Premises or Personal Property or quality of work therein, (iv) the state of title to the Subject Premises or Personal Property, (v) the rental or other income, operating expenses, tenancies or occupancies of the Subject Premises; (vi) whether the Subject Premises is in compliance with all requirements of law; (vii) as to the real estate tax liability of the Subject Premises; (viii) the compliance of the Subject Premises in its current or any future state, with any certificate of occupancy or with applicable zoning ordinances or any other

governmental laws, rules, regulations or requirements and the ability to obtain a variance in respect to the Subject Premises' non-compliance, if any, with said zoning ordinances and/or governmental requirements; (ix) except as expressly set forth herein, the presence or absence of asbestos, hydrocarbon, toxic waste and/or other hazardous materials on the Subject Premises or within the Personal Property as defined and regulated by any federal, state and/or local environmental and/or health agencies having jurisdiction with respect to the Subject Premises notwithstanding any information which may have been furnished by Seller with respect thereto; (x) the availability of any financing for the purchase or operation of the Subject Premises from any source whatsoever; (xi) the compliance of any boiler, oil burners, fuel burning devices, compactors, or any other equipment used in the operation of the Subject Premises, with all requirements of law; (xii) whether the Seller is in compliance with all requirements of law with respect to the maintenance and operation of the Subject Premises or Personal Property; or (xiii) any other matters affecting or relating to the Subject Premises, the Personal Property or this transaction which might be pertinent in considering the making or the execution of this Agreement.

**Section 5.3** In entering into this Agreement and acquiring the Subject Premises and Personal Property, Buyer has not been induced by and has not relied upon (and Seller is not liable for or bound by) any representations, warranties, guarantees, promises, statements, real estate broker "set-ups" or other information, whether express or implied, made or furnished by Seller or by any agent, employee or other representative of Seller or by any broker or any other person representing or purporting to represent Seller (whether or not any such representations, warranties, guarantees, promises or statements were made in writing or orally) which are not expressly set forth in this Agreement with respect to the Subject Premises and Personal Property.

**Section 5.4** Buyer represents and warrants to Seller that (i) Buyer shall neither encumber nor cause any liens to be created against the Subject Premises in any way, prior to the Closing; (ii) this Agreement and each of the agreements and documents to be executed and delivered in accordance with this Agreement has been, or will at the Closing be, duly authorized, executed and delivered by Buyer, and constitute, or will constitute at the Closing, a valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with its terms; (iii) Buyer has sought the advice of and has been represented by competent legal counsel of Buyer's choice in connection with this Agreement and the transactions related to this Agreement; and (iv) there are no judgments, orders, or decrees of any kind against Buyer which are unpaid or unsatisfied of record, nor any actions, suits or other legal or administrative proceedings pending or, to Buyer's actual knowledge, threatened against Buyer which would have any material adverse effect on the business or assets, or the condition, financial or otherwise, of Buyer or the ability of Buyer to consummate the transaction contemplated by this Agreement.

**Section 5.5** Buyer acknowledges that this is an "All Cash Transaction", not subject to Buyer obtaining financing and Buyer represents and warrants to Seller that Buyer has or will have by the Closing Date sufficient funds on hand to consummate the transaction contemplated by this Agreement.



**ARTICLE VI**  
**DUE DILIGENCE AND BUYER'S INSPECTION OF THE SUBJECT PREMISES**

**Section 6.1.** Buyer's obligations hereunder are subject to it having obtained, within forty-five (45) days of the Effective Date (the "Due Diligence Period"), at its sole cost and expense, such title, environmental, engineering, architectural and other studies of the Subject Premises, including but not limited to its title and environmental condition, as it deems necessary, which shall be in Buyer's sole and absolute discretion. Notwithstanding the foregoing, the nature and scope of environmental testing and investigation that Buyer shall be permitted to conduct at the Subject Premises during the Due Diligence Period is limited to those activities as approved, in advance and in writing, by Seller which approval shall not be unreasonably withheld (it being understood that Buyer intends to make test borings and take soil samplings at the Subject Premises). Buyer shall have the right to elect to terminate this Agreement by giving written notice of such election ("Buyer's Termination Notice") to Seller prior to the expiration of the Due Diligence Period, with "Time Being of the Essence" with regard thereto, in the event that Buyer, in the course of its due diligence investigation, determines that it is not satisfied in Buyer's sole and absolute discretion with its due diligence investigation. In the event this Agreement is terminated pursuant to the preceding sentence, this Agreement shall be null and void and neither party shall have any further obligation or liability to the other except as expressly set forth herein, provided that Escrow Agent shall return the Deposit to Buyer, together with accrued interest thereon. If Buyer fails to deliver Buyer's Termination Notice to Seller prior to the conclusion of the Due Diligence Period, such period shall be deemed, for all purposes hereunder, to have expired.

**Section 6.2.** Seller shall reasonably cooperate with Buyer in connection with Buyer's inspections and to facilitate Buyer's investigation and evaluation of the Subject Premises and the condition of title thereto. Seller shall have management personnel reasonably available by telephone during normal business hours to discuss the Subject Premises and its operations with agents of the Buyer. Seller shall permit Buyer and its authorized representatives to inspect all portions of the Subject Premises provided Buyer shall give Seller one (1) day prior notice (which notice shall be via telephone, fax or email), provided such notice shall include sufficient information to permit Seller to review the scope of the proposed inspection, and Buyer shall not conduct or allow to be conducted any invasive testing without Seller's prior written consent which consent shall not be unreasonably withheld. Buyer's right to enter upon the Subject Premises to conduct any invasive tests shall be further conditioned upon Buyer's obligation to provide Seller with such insurance coverages as Seller may reasonably require to protect Seller against any and all losses and liabilities which may result from Buyer's entry upon the Subject Premises or Buyer's conduct of such tests. Buyer or its environmental engineer shall obtain all such insurance coverages at Buyer's sole cost and expense, and Buyer or its environmental engineer shall provide Seller with duly issued certificates of insurance for all such coverages on or before the date on which Buyer or its environmental engineer enters upon the Subject Premises pursuant to this Section 6. Buyer shall deliver a copy of such environmental reports and studies to Seller within five (5) business days from its receipt. Buyer shall keep Seller reasonably informed of Buyer's progress in conducting its due diligence investigations during the Due Diligence Period.

**Section 6.3 BUYER AGREES TO RESTORE THE SUBJECT PREMISES TO SUBSTANTIALLY ITS ORIGINAL CONDITION AFTER THE CONDUCT OF ANY SUCH PHYSICAL INSPECTIONS OR TESTS. BUYER AGREES TO INDEMNIFY, DEFEND AND HOLD SELLER, ITS PARTNERS, MEMBERS, PRINCIPALS, OFFICERS, DIRECTORS AND EMPLOYEES, AND THE SUBJECT PREMISES HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, COSTS OR EXPENSES SUFFERED BY OR ASSERTED AGAINST SELLER, ITS PARTNERS, MEMBERS, PRINCIPALS, OFFICERS, DIRECTORS OR EMPLOYEES, AND/OR THE SUBJECT PREMISES, ARISING IN ANY MATTER INCLUDING OUT OF ANY ENTRY ON TO THE SUBJECT PREMISES OR ACTIVITIES CONDUCTED THEREON BY BUYER, ITS AGENTS, ITS PARTNERS, MEMBERS, PRINCIPALS, OFFICERS, DIRECTORS OR EMPLOYEES, DURING THE PENDENCY OF THIS AGREEMENT, AND SUCH OBLIGATIONS SHALL SURVIVE CLOSING OR ANY TERMINATION OF THE AGREEMENT. NOTWITHSTANDING ANY LIMITING LANGUAGE WHICH MIGHT OTHERWISE BE CONTAINED IN THIS AGREEMENT, SELLER SHALL BE ENTITLED TO THE REMEDIES OF SPECIFIC PERFORMANCE AND DAMAGES AGAINST BUYER IN THE EVENT OF ANY DEFAULT BY BUYER UNDER THIS AGREEMENT WITH RESPECT TO ANY REPAIR OR RESTORATION OBLIGATION IN CONNECTION WITH ANY INSPECTIONS.**

**Section 6.4** All materials obtained by Buyer pursuant to this Section 6(a) shall be held in confidence by Buyer and disclosed only to its consultants, attorneys, accountants and lenders or as may be otherwise required by law. If the parties fail to consummate the transaction described herein for any reason, Buyer shall deliver to Seller copies of all written information and reports obtained by Buyer pursuant to this Section 6(a) (including but not limited to all assessments, tests and other reports related to the environmental condition of the Subject Premises), which obligation shall survive the termination of this Agreement.

**Section 6.5** Buyer, at its sole cost and expense, shall make application during the Due Diligence Period to Title Company for its commitment to insure the Buyer's title to the Subject Premises, subject only to Permitted Exceptions. Buyer shall cause the Title Company to send any title report or certificate of title simultaneously to the Seller's attorney and the Buyer's attorney.

## **ARTICLE VII OPERATIONS PENDING CLOSING**

The Subject Premises will be delivered to Buyer on the Closing Date in substantially the same condition as exists on the date hereof, subject to reasonable wear and tear and damage by casualty or the elements. Seller shall maintain the Subject Premises until the Closing Date in a manner consistent with recent historical practices; provided, however, Seller shall be obligated to remove from the Subject Premises the tangible personal property, trade fixtures and/or equipment listed on Exhibit "C" annexed hereto (the "Excluded Assets") prior to the Closing Date. Seller shall remove all surface trash and debris located on but not under the Subject Premises prior to Closing, and the Subject Premises shall be delivered free and clear of trash and debris at Closing. Seller shall not grant any leases, tenancies or rights of occupancy in or to the Subject Premises prior to the Closing Date without Buyer's prior written approval.

## **ARTICLE VIII CLOSING**

Upon the earlier of (i) the expiration of the Due Diligence Period (without Seller having received the Buyer's Termination Notice) or (ii) Seller's receipt from Buyer of a written waiver of the Due Diligence Period, appropriate proceedings shall be commenced in the Canadian Court, and thereafter in the US Bankruptcy Court for issuance of the Orders (approving the sale as contemplated herein by the Canadian Court and recognition of the Canadian Order by the US Bankruptcy Court, including the extension of "free and clear" protections of section 363 of the Bankruptcy Code under chapter 15 of the Bankruptcy Code). If the requests for the Orders are denied or not granted in time for the Closing Date (as set forth below), Buyer shall have the option to either (i) terminate this Agreement (at which time the Deposit will be returned to Buyer and the parties shall have no further liability to each other hereunder (except for Buyer's obligations under Section 6.3 and 6.4 hereof)) or (ii) extend the Closing Date for up to fifteen (15) additional days for receipt of the Orders. If the Orders have still not been issued, then this Agreement shall terminate and the Deposit will be returned to Buyer and the parties shall have no further liability to each other hereunder (except for Buyer's obligations under Sections 6.3 and 6.4 hereof). Subject to and conditioned upon the receipt of the Orders, the closing of the transaction which is the subject of this Agreement (the "Closing") shall take place no later than the date that is sixty (60) days after the end or earlier waiver by Buyer of the Due Diligence Period (which date or any other date as may be agreed upon by the parties is referred to throughout this Agreement as the "Closing Date"), at the offices of the Escrow Agent or such other place as the parties may mutually agree upon in writing.

## **ARTICLE IX BROKERAGE**

Each party represents and warrants to the other party that it has dealt with no broker in connection with this Agreement except Industry One (the "Broker") and that it knows of no other broker who has claimed or may have the right to claim a commission or other compensation, in connection with this transaction. Each party hereto shall indemnify and defend the other party against any costs, claims or expenses, including attorneys' fees, arising out of the breach on the part of the indemnifying party of any representations, warranties or agreements contained in this paragraph. Seller shall pay any commission to the Broker as per separate agreement, but only upon completion of this sale transaction. The representations and obligations under this paragraph shall survive the Closing or, if Closing does not occur, the termination of this Agreement.

## **ARTICLE X SELLER'S CLOSING OBLIGATIONS**

At the Closing, Seller shall deliver or cause to be delivered the following to Buyer:

- (a) The duly executed and acknowledged Deed;
- (b) The duly executed Bill of Sale;
- (c) A duly executed New York State transfer tax returns;

(d) A Certification of Non-foreign Status in accordance with the provisions of Section 1445 of the Internal Revenue Code of 1986, as amended ("Section 1445"); and

(e) Any other documents required by this Agreement to be delivered by Seller.

#### ARTICLE XI BUYER'S CLOSING OBLIGATIONS

At the Closing, Buyer shall:

(a) Pay the balance of the Purchase Price, subject to adjustment for apportionments and closing costs in accordance with the terms hereof;

(b) Instruct the Escrow Agent to cause the Deed to be recorded, duly complete all required real property transfer tax returns and cause all such returns and payments of such taxes to be delivered to the appropriate officers promptly after the Closing Date; and

(c) Deliver any other documents required by this Agreement to be delivered by Buyer.

#### ARTICLE XII OBJECTIONS TO TITLE: FAILURE OF SELLER OR BUYER TO PERFORM

Section 12.1 If at the date set for the Closing, Seller is unable to convey to the Buyer title to the Subject Premises subject to and in accordance with the provisions of this Agreement or is unable to fulfill any condition precedent to Buyer's obligations under this Agreement or if any representation by Seller hereunder is not true and correct in all material respects at the Closing, Seller shall be entitled, upon written notice delivered to Buyer at or prior to such date, to reasonable adjournments of the Closing Date one or more times not exceeding sixty (60) days in the aggregate, to enable Seller to convey such title or fulfill any such condition or cure the breach of any such representation under this Agreement. If Seller does not elect to adjourn the Closing, or if on the adjourned date Seller is unable to convey title in accordance with the provisions of this Agreement, then either (i) Buyer may terminate this Agreement by written notice delivered at or prior to the date originally fixed for Closing or the adjourned date (as the case may be), whereupon this Agreement shall terminate and neither party shall have any obligations of any nature to the other hereunder except as expressly set forth herein, provided that Seller shall return the Deposit (with interest earned thereon, if any) or (ii) Buyer may elect, as permitted by Section 12.2, to take such title as Seller is able to convey without any deduction from the Purchase Price. The failure of Buyer to give Seller notice of termination as provided in subdivision (i) above, shall be deemed an election by Buyer to continue this Agreement. This Agreement shall not be deemed to require Seller (x) to institute any legal action or proceeding to remove any defects in or objections to title or to fulfill any condition of the performance of this Agreement or (y) to expend any moneys to remove any defects or objections to title, other than to satisfy existing mortgages, mechanics liens, federal tax liens, judgments or other liens and encumbrances which can be satisfied by the payment of money in a liquidated amount to a maximum of the Purchase Price.

**Section 12.2** Buyer, during the time limits set forth in Section 12.1, may accept such title as Seller can convey, without reduction of the Purchase Price or any credit or allowance on account thereof or any claim against Seller. In any event, the acceptance of the Deed by Buyer shall be deemed to be full performance of, and discharge of, every agreement and obligation on the part of Seller to be performed hereunder as a condition precedent to Buyer's obligations except for matters that are expressly provided herein or thereupon on Closing to survive the Closing.

**Section 12.3** If the Subject Premises shall, at the time of Closing, be subject to any liens, such as for judgments or transfer, franchise, license or other similar taxes, or any encumbrances or other title exceptions which would be grounds for Buyer to reject title hereunder, the same shall not be deemed an objection to title provided that, at the time of Closing, the Title Company will issue or bind itself to issue a policy which will omit same as exceptions to the insurance coverage for a premium computed at regular rates. The existence of any such liens or other defects at the Closing shall not be deemed defects in or objections to title if Seller shall deliver at the Closing instruments in form sufficient to satisfy the same.

**Section 12.4** In the event the Buyer shall fail to close by reason of its default under this Agreement, Seller shall be entitled to receive and retain the Deposit (together with any interest earned thereon), which Deposit shall be deemed to be liquidated and agreed upon damages hereunder, provided that this provision shall not limit Seller's right to pursue and recover on a claim with respect to any obligation under this Agreement which survives any such termination of this Agreement, including, but not limited to, any damages arising out of Buyer's due diligence investigation. The provisions herein contained for liquidated agreed upon damages are bona fide and constitute a reasonable estimate of Seller's damages and are not a penalty. The parties agree that by reason of Seller's binding itself to the sale of the Subject Premises and by reason of the withdrawal of the Subject Premises from sale at the time when other parties are or may be interested in acquiring the Subject Premises, that Seller will have sustained damages if Buyer defaults, which damages will be substantial but the actual damages will not be capable of determination with mathematical precision due to the unpredictability of many factors which affect the value and marketability of the Subject Premises.

**Section 12.5** If Seller shall fail to close by reason of its default under this Agreement, Buyer may as its sole remedy either (i) terminate this Agreement and receive a refund of the Deposit or (ii) pursue an action for specific performance against Seller. Seller shall not be liable to Buyer for any damages, including, without limitation, any punitive, speculative or consequential damages.

### **ARTICLE XIII ESCROW**

This Agreement shall serve as escrow instructions to the Escrow Agent, subject to its Standard Conditions of Acceptance of Escrow; provided, however, that this Agreement shall govern in the event of any conflict between said Standard Conditions and any of the terms hereof.

**ARTICLE XIV**  
**NOTICES**

**Section 14.1** Any notice or other communication required or permitted by this Agreement shall be in writing and shall be sent by Federal Express or other overnight courier service, addressed as follows:

To Seller:

c/o Arctic Glacier Inc.  
625 Henry Avenue  
Winnipeg, MB R3A 0V1  
Attn: Michael D. Wohlgemuth

Copies to:

Jones Day  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
Attn: William A. Herzberger, Esq.  
Email: wherzberger@jonesday.com

Aikins, MacAulay & Thorvaldson LLP  
30<sup>th</sup> Floor—360 Main Street  
Winnipeg, MB R3C 4G1  
Attn: Dale R. Melanson, Esq.  
Email: DRM@Aikins.com

To Buyer:

Peter J. Pastorelli, Sr.  
17 Green Street  
Huntington, NY 11743

Copy to:

Margolin & Margolin  
52 Elm Street, Suite 1  
Huntington, NY 11743  
Attn: James S. Margolin, Esq.  
Email: margolinlaw52@aol.com

**Section 14.2** The parties hereto may change the address to which notice shall be sent by giving notice as provided above. The Counsel herein identified for the respective parties are hereby authorized to give notices and any notice given by such Counsel for the respective parties shall be deemed a notice given by such party with the same force and effect as if given by such party. The copy notice to counsel may be given by email only. Notice shall be deemed delivered one (1) business day after the date sent if sent as required in this Article XIV.

## **ARTICLE XV CLOSING COSTS**

Buyer shall pay the New York State Real Estate Transfer Tax and any other documentary stamp taxes, escrow and title insurance charges and all other costs or expenses incident to execution or recordation of documents required in order to transfer title to the Subject Premises. Additionally, Buyer shall pay all costs in connection with any financing obtained by Buyer (including New York State Mortgage Recording Tax), the costs of any engineering, architectural and environmental studies in connection with its due diligence, all fees in connection with obtaining any necessary permits and/or approvals, and any updated survey costs. Seller shall pay for any real estate brokerage commission pursuant to Section 9 above and the cost of recording any release of mortgage, mechanic's lien, judgment or other encumbrance to title which Seller is obligated to satisfy pursuant to the terms of this Agreement. Each party shall pay the fees of its own attorneys.

## **ARTICLE XVI DAMAGE, DESTRUCTION OR CONDEMNATION**

Seller shall keep in effect until Closing its present hazard insurance. Seller represents that it carries full replacement cost coverage. The risk of any loss by casualty or by the taking of the Subject Premises or any part thereof by eminent domain shall be assumed solely by Seller until Closing. Notwithstanding anything to the contrary herein, Seller and Buyer each agree that in the event of a loss in connection with damage, destruction or condemnation, New York General Obligations Law Section 5-1311 shall apply.

## **ARTICLE XVII TAX-FREE EXCHANGE**

Seller shall have the option to structure the transaction which is the subject of this Agreement as a "Tax Free Exchange" under Internal Revenue Code Section 1031, in which case the following shall occur: (i) an exchange trustee will be retained by the Seller to act as a qualified intermediary for the purpose of facilitating the exchange; (ii) Seller's interest in the Subject Premises shall be assigned to the exchange trustee, together with an assignment of this Agreement; (iii) the Purchase Price will be paid by Buyer to the exchange trustee and utilized by the exchange trustee to acquire the replacement property in lieu of the Buyer acquiring the replacement property; and (iv) for reasons unrelated to Federal Income Tax, the exchange trustee shall direct the Seller to convey legal title to the Subject Premises, by deed, directly to Buyer. Buyer acknowledges that the exchange trustee will be acting in lieu of the Buyer in completing the exchange transaction, namely the acquisition of the replacement property and its transfer to Seller in exchange for the Subject Premises. Buyer agrees to cooperate with Seller in connection with such tax-free exchange, which Seller agrees shall be accomplished without delaying the closing and without any additional expense or liability to the Buyer. Seller shall be responsible for the payment of all of Seller's income taxes, interest and penalties, if any, arising out of such tax-free exchange. At Seller's request, Buyer shall execute an exchange trust containing the aforesaid provisions. If Seller shall structure the transaction as a tax-free exchange as permitted herein, at such time as Seller would otherwise be entitled to payment of the Deposit, or any other portion of the Purchase Price, Escrow Agent shall pay such amounts to the exchange trustee and

not to Seller. This paragraph shall survive closing. In the event Buyer elects to do a Tax Free Exchange, Seller, at Buyer's sole cost and expense, shall cooperate with Buyer to effectuate the exchange.

#### **ARTICLE XVIII PENDING TAX REDUCTION PROCEEDINGS**

Seller is hereby authorized to continue any proceeding or proceedings now pending for the reduction of the assessed valuation of the Subject Premises up to and including the tax year in which the Closing takes place subsequent to the Closing, and in Seller's sole discretion to litigate same. The net refund of taxes, if any, for any tax year received by Seller shall be apportioned between Seller and Buyer, if Buyer is so entitled, in accordance with the provisions of this Agreement. Prior to any apportionment, however, Seller shall be entitled to deduct from any refund that it receives all expenses, including attorneys' fees, incurred in obtaining such refund. Buyer shall deliver to Seller, upon demand, receipted tax bills and cancelled checks used in payment of such taxes and shall execute any and all consents or other documents, and do any act or thing necessary for the collection of such refund by Seller. The provisions of this section shall survive the Closing.

#### **ARTICLE XIX ENVIRONMENTAL**

**Section 19.1** Buyer acknowledges and agrees that Buyer has reviewed and/or at Closing will have had the opportunity to review to its satisfaction the environmental condition of the Subject Premises.

**Section 19.2** Subject to the provisions of Article VI (relating to due diligence), Buyer hereby covenants that, unless required by law, it will not initiate, pursue, or otherwise participate in any claim, action, or investigation, nor will it make or refer any action, investigation, or inquiry to any governmental agency or other person, against Seller or its agents, employees, or other representatives relating to the environmental condition of the Subject Premises, including any contamination at, on, under, or from the Subject Premises.

**Section 19.3** If there is any environmental condition at the Subject Premises left in place at the Subject Premises at the time of Closing, Buyer agrees to, notwithstanding anything to the contrary contained herein, expressly assume all liabilities and obligations regarding the performance of any investigation or remediation of such condition. Buyer will take such actions as are necessary to effect such assumption with the applicable governmental authorities.

**Section 19.4** Buyer does hereby forever release and discharge the Monitor, the Seller, and its respective shareholders, parent companies, subsidiaries, affiliates, legal representatives, successors and assigns of and from any and all claims, demands, losses, liabilities, judgments, settlements, damages, penalties, consequential damages, exemplary damages, fines, encumbrances, liens, remediation, abatement, costs and expenses of investigation, remediation or cleanup in defense of or resulting from any claim, action or suit, demand or administrative proceeding or any requirement of any governmental or quasi-



governmental authority whatsoever of every name and nature, whether known or unknown, whether or not well founded in fact or in law, and whether in law or in equity or otherwise, whether direct or consequential, compensatory, exemplary, liquidated or unliquidated, which Buyer or its respective legal representatives, successors, assigns, heirs, executors or administrators has, shall have or may ever have with respect to any environmental condition, investigation or remediation with respect to the Subject Premises. Buyer further expressly waives any and all claims of any sort against Seller relating to environmental conditions of the property or fitness for a particular use, including but not limited to any claims for response costs, contribution or any other liability under the federal Comprehensive Environmental Remediation Compensation and Liability Act (commonly known as "Superfund"), 42 U.S.C. § 9600 *et seq.*, and any and all other federal, state and local laws, including common law, relating to environmental clean-up.

## ARTICLE XX MISCELLANEOUS PROVISIONS

**Section 20.1** This Agreement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged, or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

**Section 20.2** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York in all respects including the validity, interpretation and performance thereof and without giving effect to principles of conflict of laws.

**Section 20.3** The captions in this agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement.

**Section 20.4** This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties.

**Section 20.5** The submission of this Agreement by Seller to Buyer shall in no manner bind Seller nor shall the same constitute an offer by Seller to Buyer. This Agreement shall be binding on Seller only when duly executed by Seller and Buyer and upon delivery of a copy of such fully executed agreement by Seller to Buyer.

**Section 20.6** If the provisions of any Exhibit or schedule to this Agreement are inconsistent with the provisions of this Agreement, the provisions of such Exhibit or schedule shall prevail.

**Section 20.7** The parties agree that neither this Agreement nor any memorandum or notice thereof shall be recorded in any public record and that, unless otherwise agreed to by Seller or otherwise required by law, this Agreement and the transaction contemplated herein shall be kept confidential by the parties.

**Section 20.8** Any time period provided herein which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next full business day.

**Section 20.9** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which constitute one and the same instrument.

**Section 20.10** Each party to this Agreement agrees to execute, acknowledge and deliver or cause to be delivered, such other deeds, assignments, affidavits, certificates and other instruments and documents as may be reasonably necessary and required by the other party from time to time to confirm and carry out the intent and purpose of this Agreement and the performance of each party's obligations under the terms of this Agreement, in such form as shall be reasonably satisfactory to counsel for both parties.

**Section 20.11** Buyer may not assign this Agreement to any person or to any entity without the prior written consent of Seller, which consent may be granted or denied in Seller's sole discretion, and any assignment in violation of this provision shall be null and void and constitute a material breach of this Agreement. Notwithstanding the foregoing, Buyer may assign this Agreement to a real estate entity in which Peter J. Pastorelli, Sr. or a member or members of his immediate family shall be members/principals (but any such assignment shall not release the Buyer from joint and several liability hereunder).

**Section 20.12** This Agreement has been negotiated by the parties hereto, each of whom have been represented by independent counsel of their choice. Neither party shall be deemed to have been the drafter of this agreement for purposes of any interpretation hereof and no deletions from prior drafts of this Agreement shall be construed to create the opposite intent of the deleted provisions.

**Section 20.13** If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or enforceable in any respects, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had ever been contained herein.

**Section 20.14** If either Buyer or Seller shall obtain legal counsel or bring an action against the other by reason of the breach of any covenant, provision or condition hereof, or otherwise arising out of or to enforce this Agreement, the unsuccessful party shall pay to the prevailing party reasonable attorney's fees, which shall be payable whether or not any action is prosecuted to judgment and all costs incurred. The term "prevailing party" shall include, without limitation, a party which obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought, whether by compromise, settlement or judgment.

**Section 20.15** Nothing in this Agreement shall be construed as giving any person, firm, corporation or other entity, other than the parties hereto, their successors and assigns, any rights, remedy or claim under or in respect to this Agreement or any provisions thereof, and no third-party beneficiary status shall be conferred on any other party except as herein set forth.

**Section 20.16** No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

**Section 20.17** The parties hereto knowingly, voluntarily, irrevocably, unconditionally and intentionally waive the right to a trial by jury in respect of any dispute or litigation arising hereunder or arising out of, under, or in connection with any document or agreement executed in connection herewith or the exercise by any party of any of their rights hereunder.

**Section 20.18** Buyer may waive any condition or contingency/term in its favor this Agreement (provided, however, that this shall not imply that Buyer can waive the condition for the receipt of the Orders) and close title in accordance with the terms hereof and without abatement in the Purchase Price.

**Section 20.19** While this Agreement is not subject to financing, in the event Purchaser shall obtain institutional financing, Seller agrees to close title in the offices of said lender or its attorneys.

**[Signatures Follow]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SELLER:

ARCTIC GLACIER NEW YORK INC.

By: 

Name: Keith W. McMahon

Title: President

BUYER:



Peter J. Pastorelli, Sr.

**EXHIBIT "A"**

**DESCRIPTION OF SUBJECT PREMISES**

All that certain plot, piece, or parcel of land, situate, lying, and being in the Town of Huntington, County of Suffolk, and State of New York being more particularly bounded and described as follows:

**BEGINNING** at a point of the easterly side of Stewart Avenue where the same is intersected by the northerly side of land now formerly of Nass; said point of beginning being also distant 150.00 feet northerly from the corner formed by the intersection of the easterly side of Stewart Avenue with the northerly side of First Avenue.

**RUNNING THENCE** south the easterly side of Stewart Avenue, North 5 degrees 14 minutes 50 seconds east 262.49 Feet;

**RUNNING THENCE** south 57 degrees 00 minutes east 156.38 feet to land now or formerly of prime;

**RUNNING THENCE** along said land now or formerly of prime the following two courses and distances:

(1) south 11 degrees 53 minutes 50 seconds west 189.87;

(2) south 8 degrees 09 minutes 40 seconds east 1.10 feet to land now or formerly of Nass;

**RUNNING THENCE** along said land now formerly of Nass north 84 degrees 45 minutes 10 seconds west 116.64 feet to the easterly side of Stewart Avenue at the point or place of beginning.

## SURVEY

The image shows a document with a header section containing the text "ALGERIA - LIND RIF - 1961". Below this, there is a section titled "ALGERIA - LIND RIF - 1961" which appears to be a list or index of items. The text is heavily degraded and difficult to read. At the bottom of the document, there is a large, circular stamp or seal, which is also heavily degraded and difficult to read. The overall quality of the image is very poor, with high contrast and significant noise.

**RECOVERED LEGAL DESCRIPTION**

1. The property is located in the County of [redacted] State of [redacted] and is described as follows: [redacted]

2. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

3. The property is situated in the [redacted] Section of the [redacted] Township of the [redacted] County of the [redacted] State of [redacted]

4. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

5. The property is situated in the [redacted] Section of the [redacted] Township of the [redacted] County of the [redacted] State of [redacted]

6. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

7. The property is situated in the [redacted] Section of the [redacted] Township of the [redacted] County of the [redacted] State of [redacted]

8. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

9. The property is situated in the [redacted] Section of the [redacted] Township of the [redacted] County of the [redacted] State of [redacted]

10. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

**RECOVERED LEGAL DESCRIPTION**

1. The property is located in the County of [redacted] State of [redacted] and is described as follows: [redacted]

2. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

3. The property is situated in the [redacted] Section of the [redacted] Township of the [redacted] County of the [redacted] State of [redacted]

4. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

5. The property is situated in the [redacted] Section of the [redacted] Township of the [redacted] County of the [redacted] State of [redacted]

6. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

7. The property is situated in the [redacted] Section of the [redacted] Township of the [redacted] County of the [redacted] State of [redacted]

8. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]

9. The property is situated in the [redacted] Section of the [redacted] Township of the [redacted] County of the [redacted] State of [redacted]

10. The property is bounded on the north by [redacted] on the south by [redacted] on the east by [redacted] and on the west by [redacted]



**EXHIBIT "C"**

**EXCLUDED ASSETS**

Seller shall engage Veolia Environmental Services, at Sellers cost, to perform the work identified on the proposal dated July 3, 2012 regarding the pumping, transportation and disposal of calcium chloride brine solution located at the Subject Premises (a copy of which proposal was provided to Buyer).



## **TAB F**

## **FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT**

**THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT** (this "First Amendment") is made as of this 31 day of August, 2012, by and between ARCTIC GLACIER NEW YORK INC., a New York corporation ("Seller"), and PETER J. PASTORELLI, SR. ("Buyer").

### **RECITALS:**

A. Seller and Buyer entered into a Purchase and Sale Agreement dated as of July 6, 2012 (the "Agreement"), relating to the sale and purchase of certain improved real property commonly known as 50 Stewart Avenue, Huntington, County of Suffolk and State of New York, as more particularly described in the Agreement.

B. Seller and Buyer acknowledged and agreed that the Effective Date of the Agreement was July 18, 2012, such that the Due Diligence Period thereunder would expire on September 4, 2012.

C. Seller and Buyer desire to amend the Agreement in accordance with the terms and conditions set forth herein. All capitalized terms used in this First Amendment but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

### **AGREEMENT:**

NOW THEREFORE, in consideration of the mutual terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer acknowledge and agree as follows:

1. Extension of Due Diligence Period; Waiver. For the sole purpose of affording Buyer additional time to conduct environmental testing at the Subject Premises in accordance with the Agreement, the Due Diligence Period shall be extended such that it expires on September 28, 2012 and, upon execution hereof, Buyer shall be deemed to have waived its right to terminate the Agreement pursuant to Section 6.1 thereof for all purposes except as relate to the results of Buyer's environmental due diligence investigation. For avoidance of doubt, the foregoing waiver does not and shall not be construed to waive or otherwise limit Buyer's right to terminate the Agreement pursuant Section 12.1 thereof.

2. Ratification of Agreement. This First Amendment shall be deemed to form a part of and shall be construed in connection with and as part of the Agreement. Except as expressly amended hereby, all of the other terms, covenants and conditions contained in the Agreement shall continue unchanged and remain in full force and effect and are hereby ratified and confirmed. If a conflict shall arise between the terms and provisions of this First Amendment and the terms and provisions of the Agreement, the terms and provisions of this First Amendment shall govern.

3. Counterparts. This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same agreement. In order to facilitate the transaction contemplated herein, telecopied signatures or signatures transmitted via email in .pdf format may be used in place of original signatures to this First Amendment.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed  
by as of the day and year first above written.

**SELLER:**

ARCTIC GLACIER NEW YORK INC.,  
a New York corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**BUYER:**



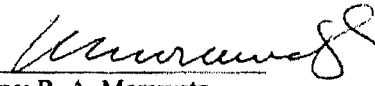
Peter J. Pastorelli, Sr.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed by as of the day and year first above written.


**SELLER:**

ARCTIC GLACIER NEW YORK INC.,  
a New York corporation

By its Monitor under the Companies' Creditors  
Arrangement Act, Alvarez & Marsal Canada  
Inc., and not in its personal capacity

Per:   
Name: R. A. Morawetz  
Senior Vice President

**BUYER:**

  
Peter J. Pastorelli, Sr.

**TAB G**

## **SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT**

**THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT** (this "Second Amendment") is made as of this 27th day of September, 2012, by and between ARCTIC GLACIER NEW YORK INC., a New York corporation ("Seller"), and PETER J. PASTORELLI, SR. ("Buyer").

### **RECITALS:**

A. Seller and Buyer entered into a Purchase and Sale Agreement dated as of July 6, 2012, as amended by a First Amendment to Purchase and Sale Agreement dated as of August 31, 2012 (as so amended, collectively, the "Agreement"), relating to the sale and purchase of certain improved real property commonly known as 50 Stewart Avenue, Huntington, County of Suffolk and State of New York, as more particularly described in the Agreement.

B. Seller and Buyer desire to amend the Agreement in accordance with the terms and conditions set forth herein. All capitalized terms used in this Second Amendment but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

### **AGREEMENT:**

NOW THEREFORE, in consideration of the mutual terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer acknowledge and agree as follows:

1. **Adjustment to Purchase Price.** The first sentence of Article II of the Agreement is modified by deleting therefrom "\$1,100,000.00 U.S. Dollars" and replacing it with "\$1,000,000.00 U.S. Dollars". For all purposes under the Agreement, the "Purchase Price" shall mean and refer to \$1,000,000.00 U.S. Dollars.

2. **Expiration of Due Diligence Period.** Buyer agrees that it will not exercise its right to terminate the Agreement pursuant to Section 6.1 of the Agreement and the Due Diligence Period shall expire on September 28, 2012.

3. **Ratification of Agreement.** This Second Amendment shall be deemed to form a part of and shall be construed in connection with and as part of the Agreement. Except as

expressly amended hereby, all of the other terms, covenants and conditions contained in the Agreement shall continue unchanged and remain in full force and effect and are hereby ratified and confirmed. If a conflict shall arise between the terms and provisions of this Second Amendment and the terms and provisions of the Agreement, the terms and provisions of this Second Amendment shall govern.

4. Counterparts. This Second Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same agreement. In order to facilitate the transaction contemplated herein, telecopied signatures or signatures transmitted via email in .pdf format may be used in place of original signatures to this Second Amendment.

[Signatures on Following Page]



IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed by as of the day and year first above written.


**SELLER:**

ARCTIC GLACIER NEW YORK INC.,  
a New York corporation

By: Alvarez & Marsal Canada Inc.  
Its: Monitor under the Companies' Creditors Arrangement A

By: \_\_\_\_\_  
Name: R. A. Morawetz  
Its: Senior Vice President

**BUYER:**

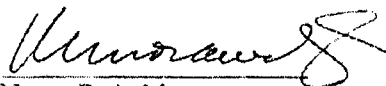
  
Peter J. Pastorelli, Sr.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be executed by as of the day and year first above written.

**SELLER:**

ARCTIC GLACIER NEW YORK INC.,  
a New York corporation

By: Alvarez & Marsal Canada Inc.  
Its: Monitor under the Companies' Creditors  
Arrangement Act

By:   
Name: R. A. Morawetz  
Its: Senior Vice President

**BUYER:**

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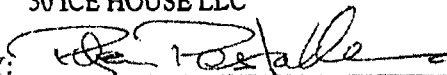
Peter J. Pastorelli, Sr.

### ASSIGNMENT OF CONTRACT

FOR VALUE RECEIVED, PETER J. PASTORELLI, SR. hereby assigns all his right, title and interest in that certain Purchase and Sale Agreement dated as of the 6th day of July, 2012, between ARCTIC GLACIER NEW YORK INC., as Seller and PETER J. PASTORELLI, SR., as Buyer, as amended by First Amendment dated as of August 31, 2012, and Second Amendment dated as of the 27<sup>th</sup> day of September, 2012 (collectively the "Agreement") said Agreement for the purchase and sale of premises known as 50 Stewart Avenue, Huntington, New York 11743 to 50 ICE HOUSE LLC as Assignee, and 50 ICE HOUSE LLC, as Assignee, hereby takes said assignment together with all benefits thereof and subject to the obligations set forth in the aforesaid Agreement.

Dated this 27<sup>th</sup> day of September, 2012

  
PETER J. PASTORELLI, SR., Assignor

50 ICE HOUSE LLC  
BY:   
PETER J. PASTORELLI, SR., Member,  
Assignee

**TAB H**



## ***CERTIFICATE OF TITLE***

### **First American Title Insurance Company**

Title No. 3020-569247

*First American Title Insurance Company* ("the Company") certifies to the "proposed insured(s)" listed herein that an examination of title to the premises described in Schedule A has been made in accordance with its usual procedure and agrees to issue its standard form of title insurance policy authorized by the Insurance Department of the State of New York, in the amount set forth herein, insuring the interest set forth herein, and the marketability thereof, in the premises described in Schedule A, after the closing of the transaction in conformance with the requirements and procedures approved by the Company and after the payment of the premium and fees associated herewith excepting (a) all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth herein that are not disposed of to the satisfaction of the Company prior to such closing or issuance of the policy (b) any question or objection coming to the attention of the Company before the date of closing, or if there be no closing, before the issuance of the policy.

This Agreement to insure shall terminate (1) if the prospective insured, his or her attorney or agent makes any untrue statement with respect to any material fact or suppresses or fails to disclose any material fact or if any untrue answers are given to material inquiries by or on behalf of the Company; or (2) upon the issuance of title insurance in accordance herewith. In the event that this Certificate is endorsed and redated by an authorized representative of the Company after the closing of the transaction and payment of the premium and fees associated herewith, such "redated" Certificate shall serve as evidence of the title insurance issued until such time as a policy of title insurance is delivered to the insured. Any claim made under the redated Certificate shall be restricted to the conditions, stipulations and exclusions from coverage of the standard form of title insurance policy issued by the Company.

First American Title Insurance Company

Dennis J. Gilmore  
President

Timothy Kemp  
Secretary





## **CLOSING REQUIREMENTS**

1. **CLOSING DATE:** In order to facilitate the closing of title, please notify the closing department at least 48 hours prior to the closing, of the date and place of closing, so that searches may be continued.
2. **PROOF OF IDENTITY:** Identity of all persons executing the papers delivered on the closing must be established to the satisfaction of the Company.
3. **POWER OF ATTORNEY:** If any of the closing instruments are to be executed pursuant to a Power of Attorney, a copy of such Power should be submitted to the Company prior to closing. THE IDENTITY OF THE PRINCIPAL EXECUTING THE POWER AND THE CONTINUED EFFECTIVENESS OF THE POWER MUST BE ESTABLISHED TO THE SATISFACTION OF THE COMPANY. The Power must be in recordable form.
4. **CLOSING INSTRUMENTS:** If any of the closing instruments will be other than commonly used forms or contain unusual provisions, the closing can be simplified and expedited by furnishing the Company with copies of the proposed documents in advance of closing.
5. **LIEN LAW CLAUSE:** Deeds and mortgages must contain the covenant required by Section 13 of the Lien Law. The covenant is not required in deeds from referees or other persons appointed by a court for the sole purpose of selling property.
6. **REFERENCE TO SURVEYS AND MAPS:** Closing instruments should make no reference to surveys or maps unless such surveys or maps are on file.
7. **INTERMEDIARY DEEDS:** In the event an intermediary will come into title at closing, other than the ultimate insured, the name of such party must be furnished to the Company in advance of closing so that appropriate searches can be made and relevant exceptions considered.

## **MISCELLANEOUS PROVISIONS**

1. THIS CERTIFICATE IS INTENDED FOR LAWYERS ONLY. YOUR LAWYER SHOULD BE CONSULTED BEFORE TAKING ANY ACTION BASED UPON THE CONTENTS HEREOF.
2. THE COMPANY'S CLOSER MAY NOT ACT AS LEGAL ADVISOR FOR ANY OF THE PARTIES OR DRAW LEGAL INSTRUMENTS FOR THEM. THE CLOSER IS PERMITTED TO BE OF ASSISTANCE ONLY TO AN ATTORNEY.
3. Our policy will except from coverage any state of facts which an accurate survey might show, unless survey coverage is ordered. When such coverage is ordered, this certificate will set forth the specific survey exceptions which we will include in our policy. Whenever the word "trim" is used in any survey exceptions from coverage, it shall be deemed to include, roof cornices, mouldings, belt courses, water tables, keystones, pilasters, portico, balcony all of which project beyond the street line.
4. Our examination of the title includes a search for any unexpired financing statements which affect fixtures and which have been properly filed and indexed pursuant to the Uniform Commercial Code in the office of the recording officer of the county in which the real property lies. No search has been made for other financing statements because we do not insure title to personal property. We will on request, in connection with the issuance of a title insurance policy, prepare such search for an additional charge. Our liability in connection with such search is limited to \$1,000.00.
5. This company must be notified immediately of the recording or the filing, after the date of this certificate, of any instrument and of the discharge or other disposition of any mortgage, judgment, lien or any other matter set forth in this certificate and of any change in the transaction to be insured or the parties thereto. The continuation will not otherwise disclose the disposition of any lien.
6. If affirmative insurance is desired regarding any of the restrictive covenants with respect to new construction or alterations, please request such insurance in advance of closing as this request should not be considered at closing.
7. If it is discovered that there is additional property or an appurtenant easement for which insurance is desired, please contact the Company in advance of closing so that an appropriate title search may be made. In some cases, our rate manual provides for an additional charge for such insurance.



Proposed Insured  
Purchaser: TBD  
Mortgagee: TBD

Title No.: 3020-569247  
Effective Date: 09/04/2012  
Redated:

Amount of Insurance:

Fee: \$0.00

Mortgage: \$0.00

THIS COMPANY CERTIFIES that a good and marketable title to the premises described in Schedule "A", subject to the liens, encumbrances and other matters, if any, set forth in this certificate may be conveyed and or mortgaged by:

**ARCTIC GLACIER LOSQUADRO INC., recited as being a New York corporation**

Which acquired title from Huntington Ice & Cube Corp. by deed dated 7/31/2007 and recorded 8/15/2007 in Liber 12518 Cp 176. (See Post)

Premises described in Schedule "A" are known as:

Address: 50 Stewart Avenue,  
Huntington, New York 11743

County: Suffolk

Town: Huntington

District:

Section: 072.00

Block: 02.00

Lot: 011.000

**For any Title Clearance Questions  
on this Report please call  
JASON GOEBEL  
COUNSEL  
(212)850-0649**

LI/bf



Title No. 3020-569247

**SCHEDULE "A"**

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE TOWN OF HUNTINGTON, COUNTY OF SUFFOLK AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY SIDE OF STEWART AVENUE WHERE THE SAME IS INTERSECTED BY THE NORTHERLY LINE OF LAND NOW OR FORMERLY OF NASS, SAID POINT OF BEGINNING BEING ALSO DISTANT 150.0 FEET NORTHERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE EASTERLY SIDE OF STEWART AVENUE WITH THE NORTHERLY SIDE OF FIRST AVENUE;

RUNNING THENCE ALONG THE EASTERLY SIDE OF STEWART AVENUE NORTH 5° 14' 50" EAST 262.49 FEET;

THENCE SOUTH 57° 00" EAST 156.38 FEET TO LAND NOW OR FORMERLY OF PRIME;

THENCE ALONG SAID LAND NOW OR FORMERLY OF PRIME THE FOLLOWING TWO COURSES AND DISTANCES:

- (1) SOUTH 11° 53' 50" WEST 189.87 FEET;
- (2) SOUTH 8° 09' 40" EAST 1.10 FEET TO LAND NOW OR FORMERLY OF NASS;

THENCE ALONG SAID LAND NOW OR FORMERLY OF NASS NORTH 84° 45' 10" WEST 116.64 FEET TO THE EASTERLY SIDE OF STEWART AVENUE AT THE POINT OR PLACE OF BEGINNING.

**THE** policy to be issued under this report will insure the title to such buildings and improvements erected on the premises, which by law constitute real property.

**FOR CONVEYANCING ONLY: TOGETHER** with all the right, title and interest of the party of the first part, of in and to the land lying in the street in front of and adjoining said premises.





Title No. 3020-569247

**SCHEDULE "B-I"**  
**(REQUIREMENTS)**

**THE FOLLOWING ARE REQUIREMENTS TO BE COMPLIED WITH FOR A TITLE POLICY TO ISSUE:**

1. Re: Arctic Glacier Losquadro Inc., a New York corporation:
  - (a) A copy of its Certificate of Incorporation and By-Laws and any amendments thereto must be submitted to this Company prior to closing.
  - (b) Since the present transaction consists in whole or in part of a conveyance or lease by a corporate grantor or lessor, there must be compliance with Sections 615 and 909 of the Business Corporation Law.

The vote of shareholders holding two-thirds of the outstanding shares of the stock of the corporation entitled to be voted is required at a meeting duly called to approve the sale or lease of all or substantially all of the assets of a corporation not made in the usual course of business; provided, however, that a majority vote of the shares outstanding and entitled to be voted is required for a corporation formed after February 22, 1998 and for a corporation formed prior thereto, the certificates of incorporation of which provides for a majority vote.

Approval of such a sale or lease may be obtained without a meeting on the written consent of the holders of all outstanding shares entitled to be voted or, if the certificate of incorporation so permits, on the written consent of the holders of outstanding shares of no less than the minimum number of votes required by the certificate of incorporation to authorize an action at a meeting at which all shares entitled to vote were present and voted.

Proofs showing the authority upon which the conveyance or lease is to be made should be submitted to counsel for the Company in advance of closing. The instrument on closing should recite the authority for the conveyance or lease.

2. Searches, including judgments, federal tax liens and bankruptcies have been run against Arctic Glacier Losquadro Inc., the certified owner(s) herein and the following must be disposed of: NO RETURNS.
3. NOTE FOR INFORMATION ONLY: Searches for federal tax liens, bankruptcies and judgments have been run against Arctic Glacier New York Inc. and such searches disclose the following: NO RETURNS.
4. A copy of the Contract of Sale must be submitted for consideration prior to closing.

NOTE: When applicable, a copy of the Contract of Sale must be submitted with the New York City Real Property Transfer Tax Return (RPT) when the consideration is \$400,000.00 or more.
5. Closing mortgage/deed must contain the following recital: Being the same premises conveyed to the parties of the first part herein by deed recorded on 8/15/2007 in(as) Liber 12518 Cp 176.
6. If the proposed mortgagor is an entity, the Certificate (Articles) and Agreements relating to its formation and operation and any amendments thereto and proof of its good standing and authority to acquire or lease and mortgage under the laws of the state (country) of its formation must be furnished the Company in advance of the closing.



Title No. 3020-569247

**SCHEDULE B-I Continued**  
**(REQUIREMENTS)**

7. The name of the proposed mortgagor must be disclosed to the Company in advance of closing so that the appropriate bankruptcy and lien searches can be run.
8. NOTE: ALL INSTRUMENTS TO BE RECORDED IN SUFFOLK COUNTY MUST BE EXECUTED WITH BLACK INK ONLY.
9. Due to the implementation of a new computer system in the Office of the Suffolk County Clerk, searches are not able to be accurately or reliably conducted to date for judgments, notices of pendency, deeds and mortgages. Until this problem is resolved, the seller or mortgagor for the transaction for which this report has been prepared must provide an affidavit at closing that there are, to the actual knowledge of the affiant, no judgments, or actions commenced against the property, in any state or federal court nor any deeds or mortgages affecting the property not disclosed in the title report.
10. To verify at closing the identity of the persons who are executing closing documents, two forms of identification, at least one of which is to contain a photograph, is required to be presented.
11. Note: Payment at closing of any amount exceeding \$5,000.00 must be made by a bank or certified check, by a check issued from an attorney's escrow account, or by wired funds.
12. FOR INFORMATION ONLY:  
  
RE: Real Property Tax Payments  
  
NOTE: The recording of documents has been significantly delayed by many county recording offices in New York State. When real estate tax payments become due prior to the recording of a deed, the local tax assessor may not have sufficient information as to where tax bills are to be sent. Where this is an issue, it may be advisable to contact the office of your local tax assessor with a copy of the closing deed. First American is not responsible for the failure to receive real estate tax bills or for any additional charges that may result from the failure to timely pay such amounts. The prompt payment of real estate taxes is the responsibility of the property owner and its mortgage lender.
13. Note: Contact Counsel for the Company in advance of closing if a document is to be executed pursuant to a power of attorney.



**Title No. 3020-569247**

**SCHEDULE "B-II"**  
**(EXCEPTIONS)**

**THE POLICY WILL INCLUDE AS EXCEPTIONS TO TITLE THE FOLLOWING MATTERS UNLESS THEY ARE DISPOSED OF TO THE SATISFACTION OF THE COMPANY:**

1. Rights of tenants or persons in possession, if any.
2. Taxes, tax liens, tax sales, water rates, sewer rents and assessments set forth herein.
3.
  - a) Any state of facts which a guaranteed survey of current date would disclose.
  - b) The exact location, courses, distances and dimensions of the land described in Schedule A are not insured without a survey thereof acceptable to this Company.
4. There (is) are one open mortgage(s) of record. (See Mortgage Schedule herein)
5. Tax search will be forwarded upon receipt. Additional exceptions may be raised on review of that search.



**Title No. 3020-569247**

**SURVEY READING**



Title No. 3020-569247

## **MORTGAGE SCHEDULE**

### **MORTGAGE**

**MORTGAGE** made by ARCTIC GLACIER NEW YORK INC. to THE TORONTO-DOMINION BANK, AS MASTER COLLATERAL AGENT in the amount of \$1,500,000.00 dated as of 3/9/2010, recorded 3/11/2010 in (as) Liber 21925 Mp 402. (Mortgage Tax Paid: \$15,750.00)

**ASSIGNMENT OF COMMERCIAL MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING** made by THE TORONTO-DOMINION BANK, AS MASTER COLLATERAL AGENT to CPPIB CREDIT INVESTMENTS INC., AS SUCCESSOR MASTER COLLATERAL AGENT dated 1/23/2012, recorded 4/12/2012 in (as) Liber 22191 Mp 864. Assigns Mortgage(s) above.

**Mortgage above may be assigned and/or satisfied by:**

**CPPIB CREDIT INVESTMENTS INC., AS SUCCESSOR MASTER COLLATERAL AGENT**

This title report does not show all the terms and provisions of the mortgage(s) set forth herein. Interested parties should contact the holder(s) thereof to ascertain the terms, covenants and conditions contained therein, and to determine if there are any unrecorded amendments or modifications thereto.



## First American Title

### Privacy Information

#### We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

#### Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

#### Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

#### Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

#### Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

#### Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

#### Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet.

In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

#### Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

#### Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

#### Fair Information Values

**Fairness** We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

**Public Record** We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

**Use** We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

**Accuracy** We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

**Education** We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

**Security** We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

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Alvarez & Samuel Casanova Inc., Artistic Clothing Manufacturer  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2100, P.O. Box 82  
Toronto, ON Canada M5J 2J1  
Attention: Mr. Michael M. Weinstein and Ms. Barbara  
Fax To: (416) 593-1300  
E-mail: [casanova@casanova.com](mailto:casanova@casanova.com)

[illegible]

**DATED** 11/17/2011



**Dominion of Canada, PROVINCE OF ONTARIO,  
MUNICIPALITY of METROPOLITAN TORONTO**

TO WITNESS:

IN THE MATTER OF: ARCTIC GLACIER PARTIES

I Patricia Tabone, of the City of Toronto, in the Municipality of Metropolitan Toronto, in the Province of Ontario, Advertising Services Representative, in the employment of The Globe and Mail, make oath and say that the advertisement :

LEGAL NOTICE

A true copy of which is hereto annexed, was duly distributed in the issues of The Globe and Mail a daily newspaper, simultaneously published in the Cities of Toronto, Montreal, Vancouver, Halifax, Calgary, Brandon, Canada, on the following dates, namely:

SEPTEMBER 11, A.D. 2012

That I have examined copies of the said newspaper published on the said dates and found the said advertisement to be correctly inserted therein.

Lesley Verrall, a Commissioner, etc.,  
Province of Ontario,  
for The Globe and Mail Inc.  
Expires December 6, 2014

Sworn before me at the City of Toronto  
in the Municipality of Metropolitan  
Toronto this 11th day of SEPTEMBER, A.D. 2012

*L. Verrall*

*Patricia Tabone*

## NOTICE TO CLAIMANTS AGAINST THE ARCTIC GLACIER PARTIES

RE: NOTICE OF CLAIMS PROCESS FOR ARCTIC GLACIER INCOME FUND, ARCTIC GLACIER INC., ARCTIC GLACIER INTERNATIONAL INC., ARCTIC GLACIER CALIFORNIA INC., ARCTIC GLACIER GRAYLING INC., ARCTIC GLACIER LANSING INC., ARCTIC GLACIER MICHIGAN INC., ARCTIC GLACIER MINNESOTA INC., ARCTIC GLACIER NEBRASKA INC., ARCTIC GLACIER NEWBURGH INC., ARCTIC GLACIER NEW YORK INC., ARCTIC GLACIER OREGON INC., ARCTIC GLACIER PARTY TIME INC., ARCTIC GLACIER PENNSYLVANIA INC., ARCTIC GLACIER ROCHESTER INC., ARCTIC GLACIER SERVICES INC., ARCTIC GLACIER TEXAS INC., ARCTIC GLACIER VERMONT INC., ARCTIC GLACIER WISCONSIN INC., DIAMOND ICE CUBE COMPANY INC., DIAMOND NEWPORT CORPORATION, GLACIER ICE COMPANY, INC., ICE PERFECTION SYSTEMS INC., ICESURANCE INC., ICE PROST ICE SERVICE INC., KNOWLTON ENTERPRISES, INC., MOUNTAIN WATER ICE COMPANY, R&K TRUCKING INC., WINKLER LUCAS ICE AND FUEL COMPANY, WONDERLAND ICE INC. AND GLACIER VALLEY ICE COMPANY, L.P. (CALIFORNIA) (COLLECTIVELY, THE "ARCTIC GLACIER PARTIES") PURSUANT TO THE COMPANIES CREDITORS ARRANGEMENT ACT (the "CCAA")

PLEASE TAKE NOTICE that on September 5, 2012, The Court of Queen's Bench (Winnipeg Centre) issued an order (the "Claims Procedure Order") in the CCAA proceedings of the Arctic Glacier Parties, requiring that all Persons who assert a Claim or Debt Claim (capitalized terms used in this notice and not otherwise defined have the meaning given to them in the Claims Procedure Order) against the Arctic Glacier Parties, whether undisputed, contingent or otherwise, and all Persons who assert a claim against Directors, Officers or Trustees of the Arctic Glacier Parties (as defined in the Claims Procedure Order, a "DOBT Claim"), must file a Proof of Claim (with respect to Claims or Debt Claims) or a DOBT Proof of Claim (with respect to DOBT Claims) with Alvarez & Marsal Canada Inc. (the "Monitor") on or before 5:00 p.m. (Winnipeg time) on October 31, 2012 (the "Claims Bar Date"), by sending the Proof of Claim or DOBT Proof of Claim to the Monitor by prepaid ordinary mail, registered mail, courier, personal delivery or electronic transmission at the following address:

Alvarez & Marsal Canada Inc., Arctic Glacier Monitor  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900, P.O. Box 22  
Toronto, ON Canada M5J 2J1  
Attention: Melanie Mackenzie and Josh Nevsky  
Fax No.: 416-947-5201  
Email: mmackenzie@alvarezandmarsal.com,  
jnevsky@alvarezandmarsal.com

Pursuant to the Claims Procedure Order, Proof of Claim Document Packages, including the form of Proof of Claim and DOBT Proof of Claim, will be sent to all known Claimants by mail, on or before September 14, 2012. Claimants may also obtain the Claims Procedure Order and a Proof of Claim Document Package from the website of Alvarez & Marsal Canada Inc. (the "Monitor") at [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier), or by contacting the Monitor by telephone (1-866-688-0510).

Only Proofs of Claim and DOBT Proofs of Claim actually received by the Monitor on or before 5:00 p.m. (Winnipeg time) on October 31, 2012 will be considered filed by the Claims Bar Date. It is your responsibility to ensure that the Monitor receives your Proof of Claim or DOBT Proof of Claim by the Claims Bar Date.

**CLAIMS AND DOBT CLAIMS WHICH ARE NOT RECEIVED BY THE APPLICABLE CLAIMS BAR DATE WILL BE BARRED AND EXTINGUISHED FOREVER.**

Certain Claimants are exempted from the requirement to file a Proof of Claim. Among those Claimants who do not need to file a Proof of Claim are persons whose Claims form the subject matter of the Indirect Purchaser Litigation, the Canadian Retail Litigation or the Direct Purchaser Litigation. Please consult the Claims Procedure Order for additional details.

DATED this 14th day of September, 2012.

**AFFIDAVIT**

**STATE OF TEXAS**

)  
)

**CITY AND COUNTY OF DALLAS)**

I, Albert Fox, being duly sworn, depose and say that I am the Advertising Clerk of the Publisher of THE WALL STREET JOURNAL, a daily national newspaper of general circulation throughout the United States, and that the notice attached to this Affidavit has been regularly published in THE WALL STREET JOURNAL for National distribution for

1 insertion(s) on the following date(s):

SEP-11-2012;

ADVERTISER: NOTICE TO CLAIMANTS AGAINST THE ARCTIC GLACIER PARTIES;

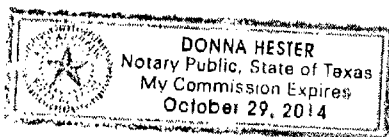
and that the foregoing statements are true and correct to the best of my knowledge.

*Albert Fox*



Sworn to before me this  
11 day of September 2012

*Donna Hester*

Notary Public



**REPORT OF THE**  
**COMMISSION ON THE**  
**STATUS OF THE**  
**ARMED FORCES OF THE UNITED STATES**



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[illegible]

1. The first step is to identify the key components of the system. This includes understanding the hardware, software, and data involved.