

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")

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

AFFIDAVIT OF KEITH MCMAHON,

SWORN MARCH 9, 2012

(Stay Extension)

DATE OF HEARING: THURSDAY, MARCH 15, 2012 AT 10 A.M.

BEFORE THE HONOURABLE MADAM JUSTICE SPIVAK

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File No. 10671373

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HERETO (collectively, the "APPLICANTS")

**AFFIDAVIT OF KEITH MCMAHON,
SWORN MARCH 9, 2012
(Stay Extension)**

I, Keith McMahon, of The City of Winnipeg, in the Province of Manitoba, MAKE
OATH AND SAY:

1. I am the chief executive officer of the Applicant Arctic Glacier Inc. ("AGI"), and a director of AGI and the Applicant Arctic Glacier International Inc. As such, I have personal knowledge of the facts to which I depose.
2. In this affidavit, I will refer to the Applicants (which term includes the Additional Applicants listed on Schedule "A" hereto) and Glacier Valley Ice Company, L.P. collectively as "Arctic Glacier" or the "Arctic Glacier Parties".

Initial Application and U.S. Recognition

3. On February 22, 2012, the Court granted the initial order in these proceedings (the "Initial Order"). In the Initial Order, the Court, among other things:
 - (a) granted a stay of proceedings as against the Arctic Glacier Parties (the "Stay Period") to March 23, 2012;
 - (b) authorized and empowered the Arctic Glacier Parties to obtain and borrow under a credit facility (the "DIP Loan") from their secured lenders (the "Secured Lenders") in an amount not to exceed a combined total of C\$26 million and

US\$24 million on terms set forth in a February 21, 2012 commitment letter (the “**Commitment Letter**”), and to execute and deliver definitive documents contemplated by the Commitment Letter (the “**Definitive Documents**”);

- (c) directed the Arctic Glacier Parties to commence a Sale and Investor Solicitation Process attached to the Initial Order (the “**SISP**”) for the purpose of offering the opportunity for potential investors to purchase or invest in the business and operations of the Arctic Glacier Parties as a going concern or to sponsor a Plan;
- (d) appointed Alvarez & Marsal Canada Inc. as the monitor (the “**Monitor**”) and directed the Monitor to act as a foreign representative of the Arctic Glacier Parties and apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*;
- (e) approved the engagement of TD Securities Inc. as financial advisor (the “**Financial Advisor**”) to the Arctic Glacier Parties and appointed 7088418 Canada Inc. o/a Grandview Advisors as Chief Process Supervisor (the “**CPS**”); and,
- (f) entitled the Arctic Glacier Parties (subject to the terms of and availability under the Commitment Letter and Definitive Documents) to pay reasonable expenses, including paying for goods or services supplied to an Arctic Glacier Party prior to the date of the Order, with the consent of the Monitor, and goods or services supplied to an Arctic Glacier Party following the date of the Order.

4. On February 23, 2012, the United States Bankruptcy Court for the District of Delaware entered an Order under Chapter 15 of title 11 of the United States Code granting provisional relief upon a motion by the Monitor, in its capacity as foreign representative of the Applicants, for an order recognizing and enforcing the Initial Order in the United States on a provisional basis (the “**US Provisional Relief Order**”). Among other things, the US Court stated as follows in the US Provisional Relief Order:

The Monitor has demonstrated a substantial likelihood of success on the merits that (i) the Debtors are subject to a pending “foreign

main proceeding” as that term is defined in section 1502(4) of the Bankruptcy Code, (ii) the Monitor is a “foreign representative” as that term is defined in section 101(24) of the Bankruptcy Code, and (iii) all statutory elements for recognition of the Canadian Proceeding are satisfied in accordance with section 1517 of the Bankruptcy Code.

A copy of the US Provisional Relief Order is attached as Exhibit “A”.

5. The US Bankruptcy Court has scheduled a hearing before the Honourable Kevin Gross in Wilmington, Delaware on March 16, 2012 at 11:00 a.m. to consider the Monitor’s petitions for recognition of these CCAA proceedings as a foreign main proceeding and enforcement of the Initial Order in the United States on a final basis (the “**US Recognition Motion**”).

Activities Post Initial Order: Stay Extension is Appropriate

6. Following the issuance of the Initial Order, Arctic Glacier has acted in good faith and with due diligence including that it, among other things:

- (a) has continued to operate the business in the normal course with the benefit of the stay of proceedings and the DIP Loan, which have provided stability to the business and alleviated the liquidity crisis that Arctic Glacier had faced at the time of filing the application for the Initial Order;
- (b) has continued to communicate and work with stakeholders; in that regard, the public support of the Secured Lenders and other stakeholders, coupled with the court supervision of the SISP has enabled Arctic Glacier to communicate with and reassure suppliers, customers, employees and other stakeholders regarding the purpose and parameters of these proceedings and the efforts to pursue the SISP and the goal of maximizing value and providing for continued operation of the business as a going concern;
- (c) has commenced the SISP and has been working with the Financial Advisor, CPS and Monitor in relation thereto; and,
- (d) has been involved in negotiating the Definitive Documents with the Secured Lenders in accordance with the Commitment Lender.

7. The Initial Order was granted only very recently and the Stay Period does not expire until March 23, 2012. However, to ensure that the stay of proceedings continues until such time as the parties may appear together before the Court in early April, a short time after the US Recognition Motion is heard and a decision granted, the Arctic Glacier Parties are seeking a very short extension of the Stay Period to April 5, 2012.

8. The stay of proceedings is essential for continued operations of the business and for the Arctic Glacier Parties to develop and implement a restructuring plan, pursue the SISP and satisfy or arrange its obligations to creditors. An extension of the Stay Period to April 5, 2012 is necessary and appropriate in the circumstances, in particular to allow the Arctic Glacier Parties to continue to implement the SISP in accordance with the Initial Order.

9. As set out in my affidavit on the application for the Initial Order, with the DIP Loan, the Arctic Glacier Parties have sufficient working capital to fund operations during these proceedings during the period February 22, 2012 to at least June 29, 2012. Arctic Glacier has already received funds pursuant to the DIP Loan and has sufficient working capital to operate during the requested extension of the Stay Period. Attached hereto as Exhibit "B" is a copy of the most recent weekly cash flow reporting package, for the week ended March 2, 2012, including a rolling 13-week cash flow forecast.

10. The Monitor and Secured Lenders have each expressed their support for the extension of the Stay Period to April 5, 2012.

11. I swear this affidavit in support of the Applicants' request for an extension of the Stay Period and for no other or improper purpose.

SWORN BEFORE ME at The City)
of Winnipeg, in the Province of)
Manitoba, this 9th day of March,)
2012.)
_____)
A Notary for and in the Province of
Manitoba



KEITH MCMAHON

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.

This is Exhibit "A" referred to in the affidavit of Keith McMahon sworn before me, this 9th

UNITED STATES BANKRUPTCY COURT DISTRICT OF DELAWARE

March 20 12 A COMMISSIONER FOR TAKING AFFIDAVITS A NOTARY PUBLIC IN AND FOR THE PROVINCE OF MANITOBA

In re Chapter 15 ARCTIC GLACIER INTERNATIONAL INC., et al., Debtors in a Foreign Proceeding. Case No. 12-10605 (KG) (Jointly Administered) Ref. Docket No. 4

ORDER GRANTING PROVISIONAL RELIEF

Upon the motion (the "Motion") of Alvarez & Marsal Canada Inc., in its capacity as the court-appointed monitor and authorized foreign representative for the above captioned debtors (collectively, the "Debtors") in a proceeding commenced under Canada's Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended, and pending before the Court of Queen's Bench of Winnipeg Centre, for entry of a provisional order, pursuant to sections 105(a), 362, 364, 365, 1519 and 1521 of the Bankruptcy Code: (i) recognizing and enforcing the initial order (the "Initial Order") of the Canadian Court on an interim basis in the United States, including the Canadian Court's decision (a) to authorize the Debtors to enter into and perform

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

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

under that certain DIP Facility,³ and (b) to grant the DIP Charge to the DIP Lenders under the DIP Facility, and; (ii) granting, on an interim basis, to and for the benefit of the DIP Lenders, certain protections afforded by the Bankruptcy Code, including those protections provided by section 364(e) of the Bankruptcy Code; (iii) granting an interim stay of execution against the Debtors' assets and applying sections 362 and 365(e) of the Bankruptcy Code in these chapter 15 cases (the "Chapter 15 Cases") on an interim basis, pursuant to sections 105(a), 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code; (iv) applying, on an interim basis, section 108 of the Bankruptcy Code; and (v) extending, on an interim basis, pursuant to sections 1519(a)(3), 1521(a)(7) and 105(a) of the Bankruptcy Code, the application of sections 362 and 365(e) to and for the benefit of Glacier Valley Ice Company, L.P. ("Glacier L.P."), one of the Debtors' non-debtor affiliates; and the Court having reviewed the Motion, the Petition for Recognition, and the Reynolds Declaration, and having considered the statements of counsel with respect to the Motion at a hearing before the Court (the "Hearing"); and appropriate and timely notice of the filing of the Motion and the Hearing having been given; and no other or further notice being necessary or required; and the Court having determined that the legal and factual bases set forth in the Motion, the Petition for Recognition and the Reynolds Declaration, and all other pleadings and proceedings in this case establish just cause to grant the relief ordered herein, and after due deliberation therefore,

THE COURT HEREBY FINDS AND DETERMINES THAT:

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

³ All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Initial Order.

constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

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

C. The Monitor has demonstrated a substantial likelihood of success on the merits that (i) the Debtors are subject to a pending "foreign main proceeding" as that term is defined in section 1502(4) of the Bankruptcy Code, (ii) the Monitor is a "foreign representative" as that term is defined in section 101(24) of the Bankruptcy Code, and (iii) all statutory elements for recognition of the Canadian Proceeding are satisfied in accordance with section 1517 of the Bankruptcy Code.

D. The Monitor has demonstrated that (i) the commencement of any proceeding or action against the Debtors and Glacier L.P. and their respective businesses and all of their assets, should be enjoined pursuant to sections 105(a), 1519 and 1521 of the Bankruptcy Code, which protections, in each case, shall be coextensive with the provisions of section 362 of the Bankruptcy Code to permit the fair and efficient administration of the Canadian Proceeding and to allow the Monitor to supervise an orderly marketing and sale process for the assets of the Debtors, pursuant to the sale and investment solicitation procedures approved in the Initial Order, for the benefit of all stakeholders; and (ii) the relief requested will not cause either an undue hardship nor create any hardship to parties in interest that is not outweighed by the benefits of the relief granted herein.

E. The Monitor has demonstrated that unless this Order is issued, there is a material risk that one or more parties in interest will take action against the Debtors, Glacier L.P.

or their assets, thereby interfering with the jurisdictional mandate of this court under chapter 15 of the Bankruptcy Code, interfering with and causing harm to the Monitor's effort to supervise a sale and maximize the value of the Debtors' assets pursuant to the terms of the SISP. As a result, the Debtors will suffer immediate and irreparable harm for which they will have no adequate remedy at law and therefore it is necessary that the Court grant the relief requested without prior notice to parties in interest or their counsel.

F. The Monitor has demonstrated that the incurrence of indebtedness authorized by the Initial Order is necessary to prevent irreparable harm to the Debtors because without such financing, the Debtors will be unable to continue operations, which will significantly impair the value of their assets.

G. The Monitor has demonstrated that the terms of the financing are fair and reasonable and were entered into in good faith by the Debtors and the DIP Lenders, as defined in the Initial Order, and the DIP Lenders would not have extended financing without conditions precedent requiring a final recognition order by this Court and the Debtors' best efforts to obtain interim protection under section 364(e) of the Bankruptcy Code, as made applicable by sections 105(a), 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, while consideration of final recognition was pending.

H. Absent the relief granted herein, the Debtors may suffer immediate and irreparable injury, loss or damage for which there is no adequate remedy at law. Further, unless this Order issues, the assets of the Debtors and Glacier L.P. located in the United States could be subject to efforts by creditors to control, possess, or execute upon such assets and such efforts could result in the Debtors suffering immediate and irreparable injury, loss, or damage by, among other things, (i) interfering with the jurisdictional mandate of this Court under chapter 15 of the

Bankruptcy Code, and (ii) interfering with or undermining the success of the Canadian Proceeding and the Debtors' efforts to pursue a going-concern sale or refinancing of their business for the benefit of all their stakeholders.

I. The Monitor has demonstrated that without the protection of section 365(e) of the Bankruptcy Code, there is a material risk that counterparties to certain of the Debtors' contracts may take the position that the commencement of the Canadian Proceeding authorizes them to terminate such contracts or accelerate obligations thereunder. Such termination or acceleration, if permitted and valid, could severely disrupt the Debtors' operations and marketing efforts, result in irreparable damage to the value of the Debtors' business, and cause substantial harm to the Debtors' creditors and other parties in interest.

J. The Monitor has demonstrated that no injury will result to any party that is greater than the harm to the Debtors' business, assets, and property in the absence of the requested relief.

K. The interests of the public will be served by entry of this Order.

L. The Monitor and the Debtors are entitled to the full protections and rights available pursuant to section 1519(a)(1)-(3) of the Bankruptcy Code.

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

1. The Motion is granted.
2. The Initial Order is hereby enforced on an interim basis, including, without limitation, (a) authorizing the Debtors to obtain credit under the DIP Facility and grant the Lenders the DIP Charge, and (b) staying the commencement or continuation of any actions

against Glacier L.P. or its assets, and shall be given full force and effect in the United States until otherwise ordered by this Court.

3. While this Order is in effect, the Monitor and the Debtors shall be entitled to the full protections and rights under section 1519(a)(1), which protections shall be coextensive with the provisions of section 362 of the Bankruptcy Code, and this Order shall operate as a stay of any execution against the Debtors' assets within the territorial jurisdiction of the United States. Specifically, all persons and entities are hereby enjoined from (a) continuing any action or commencing any additional action involving the Debtors, their assets or the proceeds thereof, or their former, current or future directors and officers, (b) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against the Debtors or their assets, (c) commencing or continuing any action to create, perfect or enforce any lien, setoff or other claim against the Debtors or any of their property, or (d) managing or exercising control over the Debtors' assets located within the territorial jurisdiction of the United States except as expressly authorized by the Debtors in writing.

4. Pursuant to sections 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, (a) section 108 is hereby made applicable to the Debtors in these Chapter 15 Cases, (b) section 362 of the Bankruptcy Code is hereby made applicable in the Chapter 15 Cases to the Debtors and the property of the Debtors within the territorial jurisdiction of the United States, and (c) section 365(e) of the Bankruptcy Code is hereby made applicable to the Debtors and to Glacier L.P. in these Chapter 15 Cases.

5. While this Order is in effect, Glacier L.P. shall be entitled to protections and rights coextensive with the provisions of section 362 of the Bankruptcy Code, and this Order shall operate as a stay of any execution against the Glacier L.P.'s assets within the territorial

jurisdiction of the United States. Specifically, all persons and entities are hereby enjoined from (a) continuing any action or commencing any additional action involving Glacier L.P., its assets or the proceeds thereof, (b) enforcing any judicial, quasi-judicial, administrative or regulatory judgment, assessment or order or arbitration award against Glacier L.P. or its assets, (c) commencing or continuing any action to create, perfect or enforce any lien, setoff or other claim against Glacier L.P. or any of its property, or (d) managing or exercising control over Glacier L.P.'s assets located within the territorial jurisdiction of the United States except as expressly authorized by Glacier L.P. in writing.

6. Notwithstanding anything to the contrary contained herein, this Order shall not be construed as (a) enjoining the police or regulatory act of a governmental unit, including a criminal action or proceeding, to the extent not stayed under section 362 of the Bankruptcy Code or (b) staying the exercise of any rights that section 362(o) of the Bankruptcy Code does not allow to be stayed.

7. Pending disposition of the Chapter 15 Petitions, pursuant to section 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, section 362 is applicable to the Debtors and the property of the Debtors within the territorial jurisdiction of the United States in the Chapter 15 Cases; provided, however, that nothing in this paragraph 7 shall limit, abridge, or otherwise effect: (i) the rights afforded the Agent and the DIP Lenders under the DIP Facility, Commitment Letter or the Initial Order.

8. The Debtors are authorized, on a provisional basis, to incur up to US\$10 million and CAD\$15 million under and in accordance with the terms of the DIP Facility and Commitment Letter, as defined in the Initial Order. In addition, the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges,

security documents, guarantees and other documents (collectively, the "DIP Documents") as are contemplated by the Commitment Letter or as may be reasonably requested by the DIP Lenders, and the Debtors are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the Commitment Letter and the DIP Facility without any need for further approval from this Court.

9. To the extent authorized under the Initial Order, the DIP Lenders are hereby granted, on a provisional basis, the DIP Lenders' Charge, as defined in the Initial Order, on all of the Credit Parties' United States assets in the amount of US \$10 million and CAD \$15 million minus the amount outstanding from time to time under the DIP Facility, subject to the priorities, terms and conditions of the Initial Order, to secure current and future amounts outstanding under the Commitment Letter and the DIP Facility. The obligations under the DIP Facility shall be on a joint and several basis for all Credit Parties (as defined in the Commitment Letter). As set forth in the Initial Order, all Arctic Glacier U.S. Group entities shall provide AGIF and Arctic Glacier Canada a lien that is a super-priority, first-ranking charge, on account of any funds extended by AGIF and Arctic Glacier Canada to any Arctic Glacier U.S. Group entity after the commencement of the Canadian Proceeding (the "Intercompany Liens"). The obligations arising under the DIP Facility shall be further secured by the Intercompany Liens. The Debtors' Prepetition Secured Lenders have agreed to subordinate their prepetition liens to the Intercompany Liens.

10. To the extent provided in the Initial Order, the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents as are contemplated in the Commitment Letter or by the DIP Facility or as may be reasonably required

by the DIP Lenders pursuant to the terms thereof, and the Debtors are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the DIP Lenders under and pursuant to the Commitment Letter and the DIP Facility including, but not limited to, the fees and expenses of the DIP Lenders' Canadian and United States counsel, and other advisors, as and when the same become due and are to be performed, notwithstanding any other provision of this Order and without any further order of this Court.

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

12. No action, inaction or acquiescence by the DIP Lenders or the Prepetition Secured Lenders including funding the Debtors' ongoing operations under this Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Lenders or the Prepetition Secured Lenders to a charge against the collateral pursuant to sections 506(c), 552(b) or 105(a) of the Bankruptcy Code. The DIP Lenders shall not be subject in any way whatsoever to the equitable doctrine of "marshaling" or any similar doctrine with respect to the collateral.

Upon entry of a final order, recognizing these proceedings as foreign main proceedings, the Prepetition Secured Lenders shall not be subject in any way whatsoever to the equitable doctrine of "marshaling" or any similar doctrine with respect to the collateral.

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

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

15. Any party in interest may make a motion seeking relief from, or modification of, this Order, by filing a motion on not less than seven (7) business days' written notice to Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York, 10019, Attn: Mary K. Warren and Alex W. Cannon, and the Court will hear such motion on a date to be scheduled by the Court.

16. Notwithstanding any provision in the Bankruptcy Rules to the contrary: (a) this Order shall be effective immediately and enforceable upon entry; (b) the Monitor shall not be subject to any stay in the implementation, enforcement or realization of the relief granted in

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

17. Pursuant to Bankruptcy Rule 7065, the provisions of Federal Rule 65(c) are hereby waived, to the extent applicable.

18. This Court shall retain jurisdiction with respect to any and all matters relating to the interpretation or implementation of this Order.

Dated: Wilmington, Delaware
February 23, 2012


KEVIN GROSS
CHIEF UNITED STATES BANKRUPTCY JUDGE