

**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")**

**FOURTH REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.  
JUNE 15, 2012**

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## 1.0 INTRODUCTION

### Canadian Proceedings

- 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. ("**A&M**") 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"** (the "**Additional Applicants**"), (collectively, 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 In connection with the Applicants' application for protection under the CCAA, A&M provided this Honourable Court with a pre-filing report (the "**Pre-Filing Report**") dated February 21, 2012 in its capacity as the proposed monitor.
- 1.3 The Initial Order, a copy of which is attached as **Appendix "B"** and which includes a copy of the SISP (as defined below), among other things:
- a) Granted a stay of proceedings (the "**Stay**") until March 23, 2012 as against the Applicants as well as against Glacier Valley Ice Company, L.P. ("**Arctic LP**"), a U.S. based limited partnership whose general partner is the Additional Applicant Mountain Water Ice Company. Arctic LP and the Applicants are collectively referred to herein as "**Arctic Glacier**", or the "**Company**";
  - b) Authorized and directed the Company to immediately commence a Sale and Investor Solicitation Process (the "**SISP**") for the purpose of providing potential

investors with the opportunity to purchase or invest in the business and operations of Arctic Glacier as a going concern, or to sponsor a plan of compromise or arrangement. A summary of the SISP was included in the Pre-Filing Report;

- c) Approved the engagement of the Financial Advisor and the appointment of the Chief Process Supervisor (“**CPS**”);
- d) Entitled the Company (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 the Company prior to the date of the Initial Order, with the consent of the Monitor, and goods or services supplied to the Company following the date of the Initial Order;
- e) Authorized and directed the Company to enter into and borrow under the DIP Facility provided by the DIP Lenders, provided that borrowings under the DIP Facility shall not exceed a combined total of CDN\$26 million and US\$24 million unless permitted by further order of this Honourable Court; and
- f) Directed the Monitor, as a foreign representative of the Applicants, to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 (“**Chapter 15**”) of the United States Bankruptcy Code, 11 U.S.C. Sec. 101-1330, as amended (the “**Bankruptcy Code**”).

### **Chapter 15 Proceedings**

- 1.4 On February 22, 2012, pursuant to the Initial Order, the Monitor filed (a) petitions for relief for all of the Applicants under Chapter 15 and (b) the *Verified Petition of Alvarez & Marsal Canada Inc. as Foreign Representative of Arctic Glacier Inc. and Certain of its*

*Affiliates for (i) Recognition of the CCAA Proceedings as a Foreign Main Proceeding, and (ii) Certain Related Relief* (collectively, the “**Chapter 15 Petitions**”). The Chapter 15 Petitions were filed with the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”). The proceedings initiated under the Chapter 15 Petitions are referred to herein as the “**Chapter 15 Proceedings**”.

- 1.5 On February 23, 2012, the U.S. Court entered the *Order Granting Provisional Relief* (the “**Provisional Relief Order**”) in the Chapter 15 Proceedings. The Provisional Relief Order, among other things, provided that the Initial Order shall be given full force and effect in the United States on a provisional basis and operated as a provisional stay of any execution against the assets of Arctic Glacier located in the United States. The relief granted in the Provisional Relief Order remained in effect pending the Recognition Hearing (as defined below).
- 1.6 On March 16, 2012, a hearing was held before the Honorable Judge Gross to consider approval of the Chapter 15 Petitions and whether to grant the relief requested therein on a final basis (the “**Recognition Hearing**”). At the Recognition Hearing, the Honorable Judge Gross considered the Objection to recognition and the Motion to rescind the DIP Facility filed by the IP Plaintiffs and described in the First Report. The U.S. Court overruled the Objection based on both lack of standing and lack of merit.
- 1.7 Following the Recognition Hearing, the U.S. Court issued an order (the “**Recognition Order**”) that provided, among other things that: (i) Canada is the center of main interests of each of the Applicants; (ii) the Monitor is the duly appointed “foreign representative” of the Applicants; (iii) the CCAA Proceedings are recognized as a foreign main proceeding; (iv) the Initial Order, including any extensions, amendments or modifications

thereto, is enforced on a final basis and given full force and effect in the United States; (iv) that the DIP Lenders be granted certain protections under the Bankruptcy Code and the borrowings under the DIP Facility be authorized on a final basis, and (iv) a stay of proceedings against the assets of the Company in the United States be granted on a final basis.

- 1.8 On March 23, 2012, the IP Plaintiffs filed a Notice of Appeal from the Recognition Order to the United States District Court for the District of Delaware. As noted in the Second Report (as defined below), the IP Plaintiffs did not specify any grounds for appeal in the Notice of Appeal and the Monitor considers the Notice of Appeal to be without merit. There is a mediation pending that has yet to be scheduled with respect to the appeal.

#### **The Monitor's Reports and Other Orders Granted in these Proceedings**

- 1.9 The Monitor filed its First Report to Court dated March 12, 2012 (the “**First Report**”) in support of the Applicants’ motion (the “**First Stay Extension Motion**”) for an Order:
- a) Extending the Stay until April 5, 2012; and
  - b) Approving the Pre-Filing Report and the First Report and the Monitor’s activities described in those reports.
- 1.10 On March 15, 2012, this Honourable Court issued the Order sought in the First Stay Extension Motion.
- 1.11 The Monitor filed its Second Report to Court dated March 30, 2012 (the “**Second Report**”) in support of the Applicants’ motion for an Order:
- a) Extending the Stay until June 15, 2012; and

- b) Approving the Second Report and the Monitor's Activities described in the Second Report.
- 1.12 On April 3, 2012, this Honourable Court issued the Order sought in the Second Stay Extension Motion; however extended the Stay until June 27, 2012.
- 1.13 The Monitor filed its Third Report to Court dated May 14, 2012 (the "**Third Report**") in support of a Consent Order in respect of a motion made by the US Direct Purchaser Antitrust Settlement Class (the "**Direct Purchaser Plaintiffs**"). The Consent Order implemented the provisions of a settlement agreement executed by the Applicants and the Direct Purchaser Plaintiffs on May 14, 2012 (the "**Settlement Agreement**"). A copy of the Third Report is attached as **Appendix "C"**. The Consent Order, a copy of which is attached as **Appendix "D"**, was issued by this Honourable Court on May 15, 2012 (the "**Consent Order**").
- 1.14 The Applicants have brought a motion returnable June 21, 2012 seeking an Order (the "**Approval and Vesting Order**"):
- a) Approving the sale transaction contemplated by the Asset Purchase Agreement dated June 7, 2012 (the "**APA**") between the Company and H.I.G. Zamboni, LLC (the "**Purchaser**"), a redacted copy of which is attached as "A" to the Affidavit of Keith McMahon dated June 13, 2012 (the "**June McMahon Affidavit**");
- b) Vesting in the Purchaser all of the Company's right, title and interest in and to the Assets (as defined in the APA) free and clear of any claims and encumbrances other than certain permitted encumbrances as set out in the draft Approval and Vesting Order;



- c) Assigning the rights and obligations of the Company under the Assigned Contracts (as defined in the APA);
- d) Directing the Monitor to pay from the proceeds of the Transaction an amount sufficient to pay the Lenders in full and in cash in respect of the Lender Claims in concurrently with, and as a condition precedent to, the closing of the Transaction, with the balance of the proceeds to be held by the Monitor in accordance with the terms of the draft Approval and Vesting Order;
- e) Extending the Stay from June 27, 2012 to August 31, 2012;
- f) Providing that the contents of the Confidential Appendix be sealed, kept confidential and not form part of the public record until further Order of this Honourable Court; and
- g) Approving the Third Report and this report (the “**Fourth Report**”) and the activities of the Monitor in these reports.

1.15 The purpose of this Fourth Report is to provide information to this Honourable Court concerning:

- a) the SISP and the proposed sale transaction contemplated by the APA (the “**Transaction**”);
- b) the activities of the Monitor from the date of the Second Report to the date of this Fourth Report;
- c) the actual receipts and disbursements of Arctic Glacier for the fifteen-week period ended June 1, 2012 as compared to the Cash Flow Forecast previously filed as part of the Second Report (the “**Updated Cash Flow Forecast**”);

- d) an extended cash flow forecast for the thirteen-week period ending August 31, 2012 (the “**Extended Cash Flow Forecast**”); and
- e) The Monitor’s comments and recommendations in respect of the Applicants’ motion for the Approval and Vesting Order.

1.16 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 Fourth Report, A&M has necessarily relied upon unaudited financial and other information supplied, and representations made, by certain senior management of Arctic Glacier (“**Senior Management**”). 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 Fourth Report, or otherwise used to prepare this Fourth Report.

2.2 Certain of the information referred to in this Fourth 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 Fourth 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 Fourth Report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Applicants.

2.4 Capitalized terms not otherwise defined in this Fourth Report are as defined in the Initial Order, the Pre-Filing Report, the First Report, the Second Report and/or the Third Report.

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

### **3.0 BACKGROUND**

3.1 As described in the affidavit of Keith McMahon sworn February 21, 2012 (the "**Pre-Filing McMahon Affidavit**") and the Pre-Filing Report, the Applicants are part of a consolidated North American business which manufactures and distributes premium quality packaged ice products in Canada and the United States from 39 production plants and 47 distribution facilities across 6 provinces in Canada and 23 states in the United States (collectively, the "**Business**").

3.2 Further background information regarding the Business and affairs of the Applicants, including the causes of their financial difficulties and insolvency, the Strategic Review Process conducted in 2011, litigation and other matters, are set out in the Pre-Filing McMahon Affidavit and the Pre-Filing Report.

### **4.0 THE RESULTS OF THE SALE AND INVESTOR SOLICITATION PROCESS**

4.1 Defined terms used in this section and not otherwise defined herein have the meaning ascribed to them in the SISP.

- 4.2 The SISP was developed as a result of extensive negotiations among the Applicants, the Financial Advisor and the Lenders, with input from the Monitor, and was approved in the Initial Order and recognized by the U.S. Court in the Recognition Order. All participants in the negotiations were cognizant of the liquidity issues facing the Applicants in determining the timelines for the SISP. The SISP and its timelines were developed to take into account the balance between the time necessary to administer the phases of a commercially reasonable sale/investment process and the available financial resources and operations of the Applicants.
- 4.3 Under the supervision of the Monitor, the Applicants implemented the SISP in accordance with the Initial Order. The Financial Advisor managed the day-to-day activities in connection with the SISP. The Monitor supervised the Financial Advisor's performance pursuant to its engagement by the Applicants. The CPS provided significant input with respect to the SISP, led twice weekly conference calls with the Company, the Monitor and their respective advisors and reported to the Special Committee.
- 4.4 The SISP provides that in order to be a Qualified Bid a bid must contain, among others, the following requirements (which requirements could not be waived by the Monitor):
- a) the purchase price contained in the bid must be in an amount sufficient to pay the Lender Claims in full and in cash on Closing; and
  - b) the Monitor had to determine that, in its reasonable business judgment, it is likely that the Qualified Bidder would be able to consummate the proposed transaction on or before the Outside Date (July 31, 2012) in a manner that complied with the SISP.

### **Phase 1 of the SISP**

4.5 The following activities were undertaken by the Financial Advisor, the Applicants, the CPS and/or the Monitor during Phase 1 of the SISP:

- A list of 165 prospective parties to contact and invite to participate in the SISP was prepared;
- The Financial Advisor contacted parties and provided a “teaser”/investment overview letter and a form of Non-Disclosure Agreement (“NDA”) to the extent that such potential bidder indicated they were interested in receiving same;
- The Monitor caused the notices required pursuant to the Initial Order and the SISP to be published in the newspapers specified in the Initial Order and the SISP;
- The Monitor ensured that notice of the SISP and a copy of the SISP was continuously posted on the Monitor’s website established for these Proceedings;
- A Confidential Information Memorandum (“CIM”) was prepared for prospective bidders who executed NDAs. The CIM included detailed information about the Business and the Applicants’ financial results; and
- An electronic data room was established (the “**Phase 1 Data Room**”) which was made available to prospective bidders who executed an NDA. The Phase 1 Data Room contained information regarding the Applicants’ financial, operational, human resources, legal, customer and supplier information to assist Phase 1 Participants in analyzing the Business and their interest in submitting an LOI.

4.6 During Phase 1 of the SISP there were extensive negotiations among prospective bidders and the Applicants, in consultation with the Monitor, regarding the execution of NDAs.

42 prospective bidders executed an NDA, received a copy of the CIM and were provided access to the Phase 1 Data Room.

4.7 The Financial Advisor, often in conjunction with the Monitor, conducted extensive discussions with many of the Phase 1 Participants, typically addressing questions arising from their review of the CIM and/or the information contained in the Phase 1 Data Room. The key topics addressed included litigation issues, the Applicants' operations, financial performance and future prospects, the impact of the CCAA Proceedings on the Business, and the quantum of the Applicants' secured and unsecured liabilities as well as the projected DIP Facility balance at Closing.

4.8 The Phase 1 Bid Deadline was 5:00 p.m. CT on March 28, 2012. Nineteen prospective bidders submitted an LOI in Phase 1. Sixteen of the LOIs were sale proposals, two were investment proposals and one was a partial sale proposal.

4.9 Throughout Phase I of the SISP, the Monitor was actively involved with the Financial Advisor, the CPS and the Company in respect of all matters related to the SISP, including:

- Commenting on the draft form of NDA to be provided to prospective bidders and engaging in discussions with the Company, its advisors and the Lenders' advisors with respect to the NDAs;
- Assisting in the negotiation of the actual NDAs executed by prospective bidders;
- Assisting in the preparation of the Phase 1 Data Room;
- Assisting in the preparation of the prospective bidder list, "teaser"/investment overview letter and CIM;

- Participating in numerous conference calls with prospective bidders and the Financial Advisor; and
- Attending the twice weekly calls organized by the CPS.

4.10 In accordance with the terms of the SISP, the Monitor, within 5 Business Days following the Phase 1 Bid Deadline, in consultation with the Financial Advisor, the CPS and the Applicants, assessed the Qualified LOIs received to determine whether there was a reasonable prospect of obtaining a Qualified Bid. The Monitor, in consultation with the Financial Advisor, CPS and Company, determined that there was a reasonable prospect of obtaining a Qualified Bid. Therefore, the Monitor recommended to the Special Committee that the SISP should continue for a further 45 days. The Special Committee accepted the Monitor's recommendation and the SISP entered Phase 2.

### **Phase 2 of the SISP**

- 4.11 On April 5, 2012, Phase 2 of the SISP commenced. On April 12, 2012, AGIF issued a press release announcing that the Special Committee had authorized the commencement of Phase 2 of the SISP. A copy of the April 12, 2012 press release is attached as **Appendix "E"**. Nine of the nineteen parties submitted a Qualified LOI during Phase 1 and were invited to participate in Phase 2 of the SISP (the "**Phase 2 Participants**").
- 4.12 As provided for in the SISP, following the commencement of Phase 2, and after notifying the Lenders, the Monitor, in consultation with the Financial Advisor, the CPS and the Applicants determined that the Phase 2 Bid Deadline should be extended by 15 days.
- 4.13 On April 24, 2012, the Financial Advisor informed the Phase 2 Participants that the Phase 2 Bid Deadline was extended to 6:00 p.m. EST (5:00 p.m. CST) on June 4, 2012.

4.14 The following activities were undertaken by the Financial Advisor, the Applicants, the CPS and/or the Monitor during Phase 2 of the SISP:

- A more extensive electronic data room was established to provide further confidential information concerning the Company to the Phase 2 Participants (the “**Phase 2 Data Room**”). Senior Management authorized the information included in the Phase 2 Data Room in consultation with the Financial Advisor and the Monitor;
- A management presentation was developed and delivered by Senior Management to all of the Phase 2 Participants as well as certain of those participants’ advisors and potential financing sources;
- Plant tours were given to the vast majority of the Phase 2 Participants;
- A letter detailing the process to be followed in submitting a bid in Phase 2 was developed and distributed;
- A draft form of Asset Purchase Agreement was developed and distributed to the Phase 2 Participants that remained interested in the acquisition opportunity;
- Detailed diligence requests were received from certain of the Phase 2 Participants and their respective advisors and consultants and were responded to by the Financial Advisor and the Applicants, with the assistance of the Monitor; and
- Numerous conference calls and/or meetings were conducted with the Phase 2 Participants and their advisors.

4.15 Reddy Ice Holdings, Inc. (“**Reddy Ice**”), a significant competitor of the Applicants, was one of the Phase 2 Participants. Reddy Ice’s participation in Phase 2 was publicly disclosed by Reddy Ice in conjunction with its United States chapter 11 proceeding. In



order to comply with antitrust requirements in the United States, the Applicants developed a separate protocol for dealing with Reddy Ice and its advisors, which was governed by a Clean Team Agreement executed by Reddy Ice. In accordance with that agreement, the Applicants provided Reddy Ice, its advisors and its sources of capital with access to separate electronic data rooms providing varying levels of confidential information depending on which party was accessing the particular data room. In addition, the Applicants developed and delivered a CIM and management presentation for Reddy Ice and its advisors, principals and sources of capital. The information in the CIM and the management presentation provided to Reddy Ice was redacted in order to protect competitively sensitive information. The Applicants' United States antitrust counsel, Jones Day, was significantly involved in all aspects of Reddy Ice's diligence efforts.

4.16 After the initial management presentations, certain of the Phase 2 Participants conducted detailed due diligence, which took the form of additional data room information requests, further management meetings and a review of more detailed financial information. Certain of the Phase 2 Participants also engaged specialized advisors such as environmental, operational and financial advisors to help them in assessing the acquisition opportunity. All of the Phase 2 Participants except Reddy Ice (who was subject to the Clean Team Agreement) received a tour of the Mississauga facility. In addition, at their request, certain Phase 2 Participants and their advisors received tours of other Company facilities.

4.17 The Financial Advisor provided a process letter and a draft form of Asset Purchase Agreement to the Phase 2 Participants who remained interested in the acquisition

opportunity. The process letter requested that interested bidders provide a mark-up of the draft Asset Purchase Agreement on May 25, 2012, nine days prior to the Phase 2 Bid Deadline. Marked-up versions of the Asset Purchase Agreement were received from three bidders on May 25, 2012.

- 4.18 Subsequent to the receipt of the marked-up Asset Purchase Agreements, the Financial Advisor, the Company and the Monitor had discussions with the three remaining bidders in order to clarify certain aspects of their bids and to deal with remaining due diligence issues. In particular, counsel for the Company, the Financial Advisor and the Monitor and its counsel attended meetings and/or conference calls with each remaining bidder on May 30, 2012. The purpose of the meetings was to deal with high level business and legal issues in respect of the marked-up Asset Purchase Agreements in an effort to achieve the most favourable bids possible at the Phase 2 Bid Deadline.
- 4.19 The three remaining Phase 2 Participants submitted Final Bids prior to the Phase 2 Bid Deadline on June 4, 2012. Two of these Phase 2 Participants who submitted a bid also provided a Deposit; the third agreed to provide a deposit upon execution of an agreement.
- 4.20 Throughout Phase 2 of the SISP, the Monitor was actively involved with the Financial Advisor, the CPS and the Company in respect of all matters related to the SISP, including:
- Attending all of the management presentations made to the Phase 2 Participants;
  - Attending certain facility tours provided to some of the Phase 2 Participants;

- Participating in numerous follow-up conference calls and meetings with the Phase 2 Participants and/or their advisors, and in particular with the three Phase 2 Participants that submitted bids;
- Assisting in the preparation of the draft form of Asset Purchase Agreement and reviewing comments thereon;
- Assisting in the preparation of the Phase 2 Data Room;
- Assisting the Financial Advisor and the Company in connection with fulfilling due diligence requests;
- Assisting the Company and its advisors in their preparation of the estimated working capital statement; and
- Attending the twice weekly calls organized by the CPS.

4.21 In accordance with the Consent Order, counsel for the Company, the Monitor and its counsel had a conference call on June 6, 2012 with the Lenders and their counsel to update the Lenders on the progress of the SISP and the Final Bids received. Further, in accordance with the Settlement with the Direct Purchaser Plaintiffs detailed in the Third Report, and prior to the Special Committee's consideration of the Final Bids received, counsel for the Company, the Monitor and its counsel had a conference call on June 7, 2012 with counsel for the Direct Purchaser Plaintiffs to discuss the key terms of the Final Bids. There were no additional conference calls or meetings with the Lenders or counsel to the Direct Purchaser Plaintiffs in respect of the matters addressed in the Settlement or the Consent Order.

4.22 As detailed in this Fourth Report, the Monitor had extensive involvement in the SISP. The Monitor is satisfied that the SISP was managed in accordance with its terms and in a fair and transparent manner. The Monitor is satisfied that the Company, the Financial Advisor and the CPS all discharged their responsibilities under the SISP in good faith and with due diligence. It is the Monitor's view that all interested parties had a reasonable opportunity to participate in the SISP and to submit a Final Bid.

#### **Evaluation of the Final Bids Received**

4.23 The Applicants received three Final Bids as a result of the SISP. These Final Bids are discussed in general terms below and are described in detail in the **Confidential Appendix**, for which a sealing order is being sought.

4.24 Following the Phase 2 Bid Deadline, the Financial Advisor, the Applicants, the Monitor and the CPS communicated with the three remaining bidders to clarify and discuss certain aspects about their respective Final Bids prior to the selection of the Successful Bid from the Purchaser.

4.25 On June 7, 2012, the Monitor advised the Special Committee that one or more Qualified Bids had been received in accordance with the SISP. The Monitor confirmed that the terms of the court-approved SISP had been followed. The Monitor, after consulting with the Financial Advisor, the CPS and the Company, and after taking into account the evaluation criteria set out in paragraph 27 of the SISP, recommended to the Special Committee that the Qualified Bid submitted by an affiliate of H.I.G. Capital (the "**Purchaser**") was the most favorable bid and should be selected. The Purchaser's bid was the highest offer received with the fewest conditions to closing. The Financial Advisor and the CPS concurred with the Monitor's recommendation. The Special

Committee accepted the Monitor's recommendation and authorized the Company to enter into the APA.

- 4.26 On June 8, 2012, the Company issued a press release announcing the transaction and identifying the Purchaser. A copy of the press release is attached to the June McMahon Affidavit.

## **5.0 THE PROPOSED APA**

### **Outline of the APA and the Transaction**

- 5.1 Defined terms used in this section and not otherwise defined have the meaning ascribed to them in the APA.
- 5.2 Pursuant to the APA, the Purchaser, a newly formed Delaware limited liability company and affiliate of H.I.G. Capital ("**HIG**"), a private equity firm headquartered in Miami, Florida, will purchase all of the Company's assets except the Excluded Assets (the "**Assets**") and will assume all of the Company's liabilities except the Excluded Liabilities (the "**Assumed Liabilities**") of the Applicants on an "as is, where is" basis.
- 5.3 HIG has indicated that it is committed to preserving the Business as a standalone enterprise based in Winnipeg, intends to invest significant growth capital into the Business, and has plans to invest in new technology, infrastructure and systems.
- 5.4 The Excluded Assets are comprised of cash and cash equivalents; tax refunds; rights under any contracts which may be disclaimed by the Applicants with the consent of the Purchaser; certain tax records; claims to reimbursement made before the date of the APA; certain pre-payments; and an excluded redundant property.

- 5.5 The Excluded Liabilities include certain current liabilities, certain tax liabilities, certain litigation liabilities, and liabilities arising in connection with the Brandywine Ice Company Defined Benefit Pension Plan.
- 5.6 As a result of the highly seasonal nature of the Applicants' business, the form of APA provided to the Phase 2 Participants by the Applicants included a mechanism to adjust the purchase price to reflect changes in working capital. The Applicants, with the assistance of the Financial Advisor, the Applicants' accountants, KPMG LLP, and the Monitor, provided Phase 2 Participants with a working capital analysis illustrating changes in the Company's working capital. The form of APA contained a provision whereby the purchase price would be adjusted off of a specified amount which was set as the historical normalized annual average level of working capital. The adjustment mechanic is necessary given the fact that a successful bidder would be acquiring the Business during its peak sales season, during which the Company's current assets are projected to significantly exceed its current liabilities. HIG accepted the Applicants' proposed mechanism for addressing this working capital surplus, which is reflected in the Purchase Price. The APA also provides a mechanism to determine the actual working capital at Closing and to adjust the Purchase Price accordingly.
- 5.7 The APA provides that the Purchaser will offer to employ all of the Company's employees (both full-time and part-time and including the executive team, whether or not such employees are on vacation or leave) on terms and conditions substantially similar in the aggregate to the current terms of such employees' employment (excluding change of control entitlements or equity incentives).

- 5.8 The purchase price for the Assets contained in the APA (the “**Purchase Price**”) includes a \$10 million deposit that is currently being held by the Monitor. The balance of the Purchase Price is to be wired to an account of the Monitor on Closing. As required by the SISP, the Purchase Price is sufficient to pay the Lender Claims in full in cash on Closing.
- 5.9 The key conditions to Closing in the APA include Canadian and U.S. Court approval, regulatory approval, and that no Material Adverse Effect has occurred. The Purchaser or the Company may terminate the APA if the conditions for the benefit of the other party are not met or waived, there is a breach by the other party that is not cured within 10 days, or the transaction has not closed by the Outside Date.
- 5.10 As part of the meetings and discussions with the three Phase 2 Participants that submitted marked-up Asset Purchase Agreements on May 25, 2012, it became apparent that each of the remaining prospective purchasers would require some protection by being able to elect not to close the transaction if a material adverse event relating to the Business should occur between execution of any agreement and closing. There was a consistent message received from each of these potential bidders that such protection would also be required by any prospective debt financier. Thus, the Company developed a Material Adverse Effect clause and provided a copy of same to each of the 3 remaining bidders.
- 5.11 The Material Adverse Effect definition contained in the APA is substantially similar to the language proposed by the Company. The Material Adverse Effect definition is limited to an event that is or is reasonably expected to be material and adverse to (i) the Business, the Assets, the Assumed Liabilities, condition (financial or otherwise), or results of operations of the Purchased Business, taken as a whole, or (ii) the ability of the Company to complete the transaction contemplated by the APA. In addition, there are a

number of exclusions to the Material Adverse Effect definition, which, if they should occur, would not be a Material Adverse Effect. Some of the key exclusions include, but are not limited to: (i) any change in general economic or political conditions or the securities, capital, credit, financial or banking markets generally, or any worsening thereof, in Canada or the United States; (ii) the loss of one or more customers of the Company; (iii) the impact of weather in and of itself on the results of operations of the Applicants, taken as a whole; or (iv) any change generally affecting the packaged ice industry in Canada or the United States.

5.12 The APA provides for the assignment of the Assigned Contracts by Court order in the event that consents are not obtained from the counterparties. The draft Approval and Vesting Order contains a provision ordering the assignment of the Assigned Contracts pursuant to Section 11.3 of the CCAA. The Monitor approves of the proposed assignments of the Assigned Contracts. It is the Monitor's view that the Purchaser will be able to perform the obligations under the Assigned Contracts and in light of the fact that the Purchaser is acquiring the Business it is appropriate for an order to be made assigning the Assigned Contracts.

5.13 The Purchaser's debt financing commitment from Credit Suisse Securities (USA) LLC and Credit Suisse AG, Cayman Islands Branch ("**Credit Suisse**") contains conditions precedent, representations and warranties and the Material Adverse Effect provisions set out in the APA. This ensures that the proposed debt financing commitment cannot be terminated due to changes in the Business for reasons beyond those contained in the APA. A copy of the debt financing commitment letter is included in the Confidential Appendix.



- 5.14 The Purchase Price is to be partially satisfied by an equity investment from an HIG private equity fund related to the Purchaser. A commitment letter from such equity fund was provided to the Purchaser and delivered as part of the Purchaser's bid package. The Monitor has reviewed the commitment letter and is satisfied with its terms and that HIG has the financial wherewithal to complete the Transaction.
- 5.15 The remainder of the Purchase Price is to be satisfied by debt financing. A commitment letter from Credit Suisse was also delivered as part of the Purchaser's bid package. Amendments were made to the debt financing commitment letter to be consistent with the amendments that were made to the APA based on discussions between the Company, the Monitor, the Financial Advisor and the Purchaser subsequent to the Phase 2 Bid Deadline. The Monitor notes that the debt financing commitment terminates on July 31, 2012, consistent with the Outside Date in the SISP and the APA.
- 5.16 The debt financing commitment contains the ability for Credit Suisse to syndicate the loan. It is a condition of Closing to the debt financing commitment that Credit Suisse be provided a period of no less than 28 consecutive business days following the execution of the APA to syndicate the loan, provided that the period between June 30 and July 8, 2012 will be excluded for the purposes of calculating the syndication period. Based on a timeline provided by the Purchaser, and the Financial Advisor and Monitor's calculation of the syndication period, the Monitor notes that the syndication period will end before the Outside Date. The Monitor notes that, notwithstanding the outcome of Credit Suisse's efforts to syndicate the loan, Credit Suisse is committed to providing the full amount of the debt commitment. The Monitor has reviewed the debt commitment letter and is satisfied with its terms and that it should be able to close before the Outside Date.

5.17 It is contemplated that the Transaction will close between July 25 and 31, 2012.

### **Secured Debt Facilities**

5.18 As at July 31, 2012, the anticipated closing date of the Transaction (the “**Closing**”), the Lender Claims and the TD Letter of Credit Obligations are projected to be as follows:

<b>Arctic Glacier</b>			
<b>Projected Balances as at July 31, 2012 (in \$ millions)</b>			
	<b>Facility</b>	<b>Amount Outstanding (CDN\$)</b>	<b>Amount Outstanding (US\$)</b>
<b>(1) First Lien Debt</b>			
Canadian Revolving Facility (US\$)	15.0	7.1	n/a
Canadian Swing Line Facility (US\$)	5.0	-	n/a
U.S. Revolving Facility (US\$)	45.0	n/a	23.2
U.S. Swing Line Facility (US\$)	5.0	n/a	-
	<b>70.0</b>	<b>7.1</b>	<b>23.2</b>
<b>(2) Second Lien Debt</b>			
Second Lien Canadian Term Loan (CDN\$)	50.0	62.0	n/a
Second Lien U.S. Term Loan (US\$)	138.9	n/a	171.5
	<b>188.9</b>	<b>62.0</b>	<b>171.5</b>
<b>(3) TD Letter of Credit Obligations (US\$)</b>			
	<b>0.1</b>	<b>n/a</b>	<b>0.1</b>
<b>DIP Facility</b>			
DIP Facility (CDN\$)	26.0	15.5	-
DIP Facility (US\$)	24.0	-	13.5
	<b>50.0</b>	<b>15.5</b>	<b>13.5</b>
<b>TOTAL</b>	<b>309.0</b>	<b>84.6</b>	<b>208.3</b>
<b>Notes:</b>			
1.	First Lien Debt balances include accrued interest and accrued commitment fees. Assumes no change in Canadian and United States prime interest rates.		
2.	Second Lien Debt balances include PIK and non-PIK interest as well as prepayment premiums.		
3.	Amounts above exclude unreimbursed expenses payable to the Lenders.		

5.19 As noted above, the Lender Claims consist of the following:

- a) First Lien Debt – Approximately CDN\$7.1 million and US\$23.2 million owing under the First Lien Credit Agreement. AGI and AGII are borrowers and the remaining Applicants have granted secured guarantees of the First Lien Debt.

- b) Second Lien Debt – Approximately CDN\$62.0 million and US\$171.5 million owing pursuant to the Second Lien Credit Agreement. AGI and AGII are borrowers and the remaining Applicants have granted secured guarantees of the Second Lien Debt.
  - c) TD Letter of Credit Obligations – A small credit facility totaling \$125,000 maintained by the Toronto-Dominion Bank to secure payment under a letter of credit previously issued under the First Lien Credit Agreement.
  - d) DIP Facility – Based on the Company’s forecast, approximately CDN\$15.5 million and US\$13.5 million owing under the Canadian and US dollar available DIP Facility. AGI and AGII are borrowers and the remaining Applicants have granted secured guarantees of the DIP Facility. The CDN\$15.5 million and US\$13.5 million does not account for anticipated cash on hand at Closing of CDN\$3 million and US\$4.7 million. As the APA treats cash on hand as an Excluded Asset, it is anticipated that any cash on hand at Closing will be used in connection with the Closing of the Transaction or transferred to an account to be established by the Monitor to deal with post-Closing estate issues.
- 5.20 Based on the Extended Cash Flow Forecast, as at July 31, 2012, the projected Lender Claim amounts are CDN\$84.6 million and US\$208.3 million not including unreimbursed expenses. These amounts include a pre-payment premium in the amount of CDN\$3.6 million and US\$10 million and accrued default interest in the amount of CDN\$1.1 million and US\$3.1 million, in each case, with respect to the Second Lien Debt.

## **Independent Security Opinion**

- 5.21 As discussed in the First Report, the Monitor’s independent legal counsel, Osler, conducted and co-ordinated a security review and provided an opinion on the validity and enforceability of the loan, guarantee and security documentation in connection with the First Lien Credit Agreement, the Second Lien Credit Agreement and the TD Letter of Credit Obligations.
- 5.22 In connection with the above, Osler rendered to the Monitor a security review opinion in the Provinces of Ontario and Alberta, which contains as appendices, security review opinions from legal counsel in: (a) the Provinces of Quebec, British Columbia, Saskatchewan and Manitoba; and (b) the States of New York, Delaware, California, Oregon, Texas, Michigan, Wisconsin, Iowa and Minnesota (collectively with the security review opinion of Osler in the Provinces of Ontario and Alberta, the “**Opinions**”).
- 5.23 The Opinions provide that, subject to the customary assumptions, qualifications and limitations contained therein:
- a) the loan, guarantee and security documentation in connection with the First Lien Credit Agreement, the Second Lien Credit Agreement and the TD Letter of Credit Obligations constitute legal, valid and binding obligations of the parties thereto, enforceable against such parties in accordance with their respective terms; and
  - b) the Computershare Security, the Agent Security, the TD Security, the Canadian Master Collateral Agent Security and the US Security create valid security interests and/or charges (as applicable) in favour of the applicable secured parties in the collateral described therein and such security interests, to the extent capable

of perfection by registration, have been validly perfected by registrations made in the relevant jurisdictions in order to perfect or evidence such security.

5.24 As noted in the Pre-Filing Report, the First Lien Credit Agreement and the Second Lien Credit Agreement contain an obligation to pay default interest in certain circumstances. The cash flow forecasts filed throughout the CCAA Proceeding provide for the payment of default interest on the First Lien Debt and the definition of the Lender Claims in the SISP included default interest, as does the projected amount of the Lender Claims to be paid on Closing. As further described in the Pre-Filing Report, section 8 of the *Interest Act (Canada)* purports to limit the circumstances where default interest can be charged if a principal amount owing under a loan is secured by a mortgage over real property. The security granted to the Lenders and their agent(s) is comprehensive security on all of the assets of the Applicants which includes mortgages on real property in Canada and the United States. The real property in Canada comprises a relatively small portion of the Company's real property holdings and an even smaller portion of its overall assets. The APA does not allocate any value to the Company's owned real property. The Monitor understands that the distribution order being sought by the Applicants includes payment of the Lender Claims in full, including default interest. The Monitor also notes that the Purchase Price provided for in the APA is sufficient to pay all known creditor claims in full and may be sufficient to make a distribution to unitholders depending on the outcome of a claims process. The Monitor notes that the Lenders have been supportive of the Company and provided the funding necessary to implement the SISP and achieve a going concern solution for the Company's stakeholders and that such support was premised on the Lenders being paid the Lender Claims, including default interest.

## **6.0 ACTIVITIES OF THE MONITOR**

6.1 In addition to the Monitor's ongoing supervision of and involvement with the SISP, the activities of the Monitor from the date of the Second Report have included the following:

- Attending the Company's premises on a regular basis;
- Monitoring the receipts, disbursements, purchase commitments and arrangements for deposits with certain suppliers of the Applicants, including tracking on a weekly basis, the outstanding balances and major commitments due to critical suppliers identified in the Initial Order;
- Assisting Senior Management in the Company's weekly financial reporting requirements to the DIP Lenders and assisting the Company in meeting its other obligations under the DIP Facility;
- Organizing weekly update calls with the Lenders to discuss the weekly cash flow report and provide an update on the Company's operations;
- Assisting and discussing with the Company its operations and customer relations as requested by the Company;
- Reviewing the Company's weekly analysis of its DIP draw requirements and reviewing requests regarding same when required;
- Attending the Applicants' negotiations with the Direct Purchaser Plaintiffs resulting in the Settlement;
- Continuing a review of transactions entered into by the Company prior to the CCAA Proceedings, as required by the CCAA;

- Assisting Senior Management with communications with customers, suppliers, employees and other parties;
- Responding to various inquiries from unitholders regarding the CCAA Proceedings, the SISP and its outcome;
- Acting as foreign representative in the Chapter 15 Proceedings, and, in those proceedings, dealing with the mediation of the appeal of the Recognition Order filed by the IP Plaintiffs;
- Making non-confidential materials filed with this Honourable Court and with the U.S. Court publically available on the website established by the Monitor for the CCAA Proceedings; and
- Responding to enquiries from various other stakeholders, including addressing questions or concerns of parties who contacted the Monitor on the toll-free number established by the Monitor.

## **7.0 RECEIPTS AND DISBURSEMENTS FOR THE FIFTEEN-WEEK PERIOD ENDED JUNE 1, 2012**

- 7.1 The consolidated receipts and disbursements of Arctic Glacier for the period February 18 to June 1, 2012 as compared to the Updated Cash Flow Forecast are summarized below:

<b>Arctic Glacier</b>			
<b>Schedule of Consolidated Receipts and Disbursements as Compared to the CCAA Cash Flow Forecast</b>			
<b>For the Period February 18, 2012 to June 1, 2012</b>			
<b>Unaudited, (US\$000's)</b>			
	<b>Actual</b>	<b>Forecast</b>	<b>Variance</b>
<b>Forecast Cash Inflow</b>			
Customer collections	39,540	33,181	6,359
<b>Forecast Total Receipts</b>	<u>39,540</u>	<u>33,181</u>	<u>6,359</u>
<b>Forecast Cash Outflow</b>			
Supplier payments, vehicle, occupancy, selling and general	28,569	38,964	10,395
Payroll and benefits	19,215	19,084	(131)
Insurance	3,236	3,837	601
Capital expenditures	3,371	7,065	3,694
Interest and financing fees	2,418	2,962	544
Professional fees	9,148	12,715	3,567
<b>Total Forecast Outflow</b>	<u>65,957</u>	<u>84,627</u>	<u>18,670</u>
<b>Net Cash Flow, prior to DIP Financing</b>	(26,417)	(51,446)	25,029
DIP financing - advances	23,066	47,000	(23,934)
<b>Net Cash Flow</b>	(3,351)	(4,446)	1,095
<b>Cash, beginning of period (February 18, 2012)</b>	<u>8,629</u>	<u>6,525</u>	<u>2,104</u>
<b>Cash, end of period (June 1, 2012)</b>	<u>5,278</u>	<u>2,079</u>	<u>3,199</u>
<b>Permitted DIP Financing Cumulative Draw</b>	50,000	50,000	-
DIP financing cumulative draw	23,066	47,000	(23,934)
<b>Net DIP Financing Availability</b>	<u>26,934</u>	<u>3,000</u>	<u>23,934</u>
<b>Note 1</b> Readers are cautioned to read the Terms of Reference as set out previously in this report for information regarding the preparation of the Cash Flow Forecast.			

7.2 During the fifteen-week period ended June 1, 2012 (the “**Reporting Period**”), the Company’s actual receipts were approximately \$6.4 million greater than forecast in the Updated Cash Flow Forecast. Management attributes this variance primarily to a combination of greater than budgeted sales during the Reporting Period, and certain assumptions related to forecast collections that did not materialize during the Reporting Period.

7.3 The Company’s total disbursements for the Reporting Period were approximately \$18.7 million less than those anticipated in the CCAA Cash Flow Forecast. Of this variance, approximately \$8.8 million relates to underlying cash flow assumptions regarding



operating costs which did not materialize, and approximately \$3.4 million relates to professional fees, which to a large degree, is considered to be a timing variance. The remaining variance of approximately \$6.5 million is considered to be permanent.

7.4 The closing cash balance of Arctic Glacier as at June 1, 2012 was approximately \$5.3 million (approximately \$2.6 million in Canada and \$2.7 million in the U.S.). Draws on the DIP Facility to June 1, 2012 were \$23.1 million (approximately CDN\$11.5 million and US\$11.6 million).

7.5 Overall, during the Reporting Period, Arctic Glacier experienced a positive net cash flow variance of approximately \$25.0 million, relative to the Updated Cash Flow Forecast. Arctic Glacier's availability under the DIP Facility as at June 1, 2012 was approximately \$26.9 million, which is approximately \$23.9 million more than forecast.

7.6 Paragraph 5 of the Initial Order authorized the Applicants to continue to utilize their existing cash management practices or similar practices as may be required to facilitate the terms of the DIP Facility. Senior Management has advised the Monitor that Arctic Glacier's cash management system continues to operate in the same manner as it had prior to the commencement of these proceedings.

## **8.0 UPDATED CASH FLOW FORECAST FOR THE THIRTEEN-WEEK PERIOD ENDING AUGUST 31, 2012**

8.1 The Applicants, with the assistance of the Monitor, have prepared the Extended Cash Flow Forecast for the thirteen-week period June 2 to August 31, 2012 (the "**Extended Cash Flow Period**").

8.2 A copy of the Extended Cash Flow Forecast is attached to this report as **Appendix "F"**. For reference purposes, the Extended Cash Flow Forecast also includes the Canadian and

U.S. regional cash flow forecasts which form the consolidated Extended Cash Flow Forecast.

8.3 A summary of the Extended Cash Flow Forecast is set out in the table below.

<b>Arctic Glacier</b>			
<b>Unaudited Summary of Extended Cash Flow Forecast (Notes 1 and 2)</b>			
<b>For the 13-Week Period Ending August 31, 2012</b>			
<b>(US\$000's)</b>			
	<b>AG Companies (Consolidated)</b>	<b>Canadian Applicants</b>	<b>U.S. Applicants</b>
<b>Forecast Cash Inflow</b>			
Customer collections	96,946	23,031	73,915
<b>Forecast Total Receipts</b>	<b>96,946</b>	<b>23,031</b>	<b>73,915</b>
<b>Forecast Cash Outflow</b>			
Supplier payments, vehicle, occupancy, selling and general	46,565	10,756	35,809
Payroll and benefits, including KERP	25,144	7,152	17,992
Insurance	-	-	-
Capital expenditures	6,353	-	6,353
Interest and financing fees	1,313	585	728
Professional fees	11,786	10,486	1,300
<b>Total Forecast Outflow</b>	<b>91,161</b>	<b>28,979</b>	<b>62,182</b>
<b>Net Cash Flow, prior to DIP Financing</b>	<b>5,785</b>	<b>(5,948)</b>	<b>11,733</b>
DIP financing - advances	6,000	4,000	2,000
<b>Net Cash Flow</b>	<b>11,785</b>	<b>(1,948)</b>	<b>13,733</b>
<b>Cash, beginning of period (June 2, 2012)</b>	<b>5,278</b>	<b>2,612</b>	<b>2,666</b>
<b>Cash, end of period (August 31, 2012)</b>	<b>17,063</b>	<b>664</b>	<b>16,399</b>
<b>Note 1</b> Readers are cautioned to read the Terms of Reference as set out previously in this report for information regarding the preparation of the Cash Flow Forecast.			
<b>Note 2</b> The Extended Cash Flow Forecast has been prepared to August 31, 2012 to coincide with the proposed extension to the Stay.			

8.4 The Monitor notes the following with respect to the Extended Cash Flow Forecast:

- a) The Applicants have consolidated cash resources of approximately \$5.3 million at the commencement of the Extended Cash Flow Period, June 2, 2012. As previously reported, Senior Management has advised that the Company generally requires minimum cash reserves of \$2 million to \$3 million in order to manage the payment cycle of the Business, including timing differences that can occur in

customer receipts, and the funding of major disbursement items such as payroll, occupancy and other costs.

- b) Over the course of the Extended Cash Flow Period, the Applicants forecast a net cash inflow, prior to any DIP financing of approximately \$5.8 million, comprised of the following by geographic region:

Canada (net cash outflow) – (\$5.9) million

U.S. (net cash inflow) – \$11.7 million

- c) The Monitor notes that the second payment due under the KERP, being 25% of the total KERP obligation, was paid when due on the Phase 2 Bid Deadline (June 4, 2012) and is reflected in the Extended Cash Flow Forecast.
- d) The Extended Cash Flow Forecast reflects additional advances under the DIP Facility of \$6.0 million during the Extended Cash Flow Period, of which \$4.0 million is expected to be drawn by the Canadian Applicants, and \$2.0 million by the U.S. Applicants.
- e) Total advances under the DIP Facility by the end of the Extended Cash Flow Period are forecast to be \$29.0 million, \$15.5 million of which is forecast to be drawn by the Canadian Applicants and \$13.5 million of which is forecast to be drawn by the U.S. Applicants.
- f) The Extended Cash Flow Forecast includes the continued payment of debt service costs on the debt owing under the First Lien Credit Agreement, including default interest.
- g) Senior Management expects to fund the cash flow requirements of the Business with forecast cash resources and drawdowns under the DIP Facility.

h) The Monitor notes that the DIP Facility expires on August 8, 2012 and that the Extended Cash Flow Forecast does not take into account receipt of the proceeds of the Transaction which is anticipated to close on or before July 31, 2012. The receipt of such proceeds are not taken into account as the Purchase Price, and other financial terms of the APA, have been filed on a confidential basis and are subject to a request for a sealing order. It is the Monitor's intention to file an updated cash flow forecast subsequent to the closing of the Transaction. The Monitor notes that the proceeds of the Transaction will provide the estate with sufficient funds through the period of the requested Stay, and that expenses of the estate during this period will be largely limited to professional fees associated with post-closing matters.

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

### **The APA and the Sale Transaction**

9.1 The Monitor is of the view that the transaction contemplated by the APA with the Purchaser meets the factors set out in section 36(3) of the CCAA. The APA provides for a going concern sale of the Business that maintains operations. It provides for continued employment of the Applicants' existing employees, a continued customer for the Applicants' many suppliers and a continued source of supply for the Applicants' customers. The APA is subject to minimal conditions and reflects the fact that the Purchaser's financing is fully committed. The APA reflects the Applicants' efforts to obtain the best possible price for their assets through an extensive, court-approved, marketing process. The Monitor supervised the SISP and supervised the Financial Advisor's performance under its engagement with the Applicants and is satisfied that the

SISP was managed in accordance with its terms and that prospective purchasers and investors were provided a reasonable opportunity to participate in the process. In the Monitor's view, the SISP was carried out in a fair and transparent manner.

- 9.2 The APA contained the highest price received in the SISP for the Assets and had the fewest conditions to close. Accordingly, the Monitor recommended to the Special Committee that the APA was the most favourable bid received under the SISP and that it should be selected. The Financial Advisor and the CPS concurred with the Monitor's recommendations and the Special Committee accepted the recommendation.
- 9.3 It is the Monitor's view that the Purchase Price is fair and reasonable in light of the fact it resulted from a wide canvassing of the market pursuant to the court-approved SISP. It is also the Monitor's view that the Transaction, which provides for a going concern sale of the Business, is more beneficial to the Company's creditors and other stakeholders than a sale or disposition under a bankruptcy.
- 9.4 The Purchase Price is sufficient to satisfy the Lender Claims in full, any amounts that may be owing under any Court-ordered charges and the Company's known unsecured creditors in full, including any payments that may be required under section 36(7) of the CCAA. There may also be sufficient funds to permit a distribution to its unitholders after all creditor claims have been proven through a claims process.

#### **The Confidential Appendix**

- 9.5 The Applicants are seeking a sealing order for the Confidential Appendix, which contains a copy of the unredacted APA, the commitment letter, a summary of the bids and additional commercially sensitive information concerning the SISP. Disclosure of this

commercially sensitive information and/or the identities of the other bidders and the terms of their bids before Closing could negatively affect any future transaction with respect to the Applicants. As such, the Monitor supports the Applicants' request for an order sealing Confidential Appendix.

### **Extension of the Stay**

- 9.6 The Applicants have requested an extension of the Stay to August 31, 2012. The Monitor agrees that an extension until that date is appropriate, as it is subsequent to the anticipated closing of the Transaction. The Extended Cash Flow Forecast filed by the Applicants demonstrates that the Applicants are projected to have sufficient liquidity to continue operations during the proposed extension of the requested Stay period. The Applicants continue to work with due diligence and in good faith. Accordingly, the Monitor recommends that this Honourable Court grant the Stay extension requested by the Applicants.

### **Post-Closing Matters**

- 9.7 As it is contemplated by the APA that the Purchaser will offer employment to all of the Applicants' employees, there will be no employees or management remaining with the Applicants following the Closing the Transaction.
- 9.8 Given that the amount of the Purchase Price exceeds the Lender Claims, a claims process will be required to determine the existence and amounts of any unsecured claims. It is anticipated that a motion for such a claims process will be brought before this Honourable Court shortly after the Closing of the Transaction. Accordingly, it will be necessary for the Monitor to have access to the former employees, Senior Management

and the Company's books and records following the Closing of the Transaction to assist the Monitor in resolving claims filed in the claims process. It may also be necessary to have access to such individuals and information to assist in dealing with the Excluded Assets. The Monitor has discussed this issue with the Purchaser and understands that the Purchaser intends to work with the Monitor and the Applicants to put in place an arrangement to address these matters which arrangement will be brought before this Honourable Court for approval before the Closing of the Transaction.

9.9 For the foregoing reasons, the Monitor hereby respectfully recommends that this Honourable Court approve the APA and grant the relief sought by the Applicants.

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All of which is respectfully submitted to this Honourable Court this 15<sup>th</sup> day of June, 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".**



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Per: Richard A. Morawetz  
Senior Vice President

# **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.

# **APPENDIX “B”**

**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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**INITIAL ORDER**

DATE OF HEARING: WEDNESDAY, FEBRUARY 22, 2012 AT 11 A.M.  
BEFORE THE HONOURABLE MADAM JUSTICE SPIVAK

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File No.: 1103500

Doc#10669822v14

File No. 10671373

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

THE HONOURABLE MADAM	)	WEDNESDAY, THE 22nd
	)	
JUSTICE SPIVAK	)	DAY OF FEBRUARY, 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

**INITIAL ORDER**

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") 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 McMahan sworn February 21, 2012 and the Exhibits thereto (the "**McMahon Affidavit**"), and on being advised that CPPIB Credit Investments Inc., or any successor thereto (the "**Agent**"), as the Administrative Agent on behalf of the secured lenders to the Applicants (the "**Secured Lenders**") consents to the relief requested in this Application, and on being advised that notice of this Application

was given to Coliseum Capital Management LLC (New York) and Talamod Asset Management, LLC, in their capacity as registered holders of units of Arctic Glacier Income Fund, and on hearing the submissions of counsel for the Applicants, Alvarez & Marsal Canada Inc. and counsel for the Secured Lenders, no one appearing for any other party although duly served as appears from the affidavit of service, and on reading the consent of Alvarez & Marsal Canada Inc. to act as the Monitor.

## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the supporting materials is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

## **APPLICATION**

2. THIS COURT ORDERS AND DECLARES that the Applicant Arctic Glacier Income Fund (“**AGIF**”) is an income trust to which the CCAA applies and the Applicants Arctic Glacier Inc. (“**AGI**”) and Arctic Glacier International Inc. (“**AGII**”) and those entities listed on Schedule “A” (the “**Additional Applicants**”), are debtor companies to which the CCAA applies (the Applicants (which term includes the Additional Applicants) and Glacier Valley Ice Company, L.P. (“**Glacier LP**”) are collectively referred to herein as the “**Arctic Glacier Parties**”).

## **PLAN OF ARRANGEMENT**

3. THIS COURT ORDERS that the Arctic Glacier Parties shall have the authority to file and may, subject to further order of this Court, file with this Court one or more plans of compromise or arrangement (hereinafter referred to collectively as the “**Plan**”).

## **POSSESSION OF PROPERTY AND OPERATIONS**

4. THIS COURT ORDERS that the Arctic Glacier Parties shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, each of the Arctic Glacier Parties

shall continue to carry on business in a manner consistent with the preservation of their respective businesses (the “**Business**”) and Property. The Arctic Glacier Parties are hereby authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Arctic Glacier Parties shall be entitled to continue to utilize the central cash management system currently in place as described in the McMahon Affidavit or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Arctic Glacier Parties of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Arctic Glacier Parties, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that, subject to the terms of and availability under the Commitment Letter and the Definitive Documents (each as defined herein), the Arctic Glacier Parties shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future fees and expenses of members of the board of trustees and any wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred

in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the fees and disbursements of any Assistants retained or employed by the Arctic Glacier Parties, trustees of AGIF, or directors and officers of the Arctic Glacier Parties in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein and subject to the terms of and availability under the Commitment Letter and the Definitive Documents, the Arctic Glacier Parties shall be entitled but not required to pay all reasonable expenses incurred by the Arctic Glacier Parties in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including existing directors and officers insurance in respect of the Arctic Glacier Parties' trustees, directors and officers, any reasonable renewals or substitutions thereof and run off coverage in respect thereto), maintenance and security services;
- (b) payment for goods or services actually supplied to an Arctic Glacier Party prior to the date of this Order with the consent of the Monitor; and
- (c) payment for goods or services actually supplied to an Arctic Glacier Party following the date of this Order.

8. THIS COURT ORDERS that the Arctic Glacier Parties shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts

in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by an Arctic Glacier Party in connection with the sale of goods and services by the Arctic Glacier Parties, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada, or of any Province thereof or any political subdivision thereof or any other taxation authority (including taxation authorities in the United States) in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Arctic Glacier Parties.

9. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Arctic Glacier Parties shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Arctic Glacier Party and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears) or in accordance with the relevant lease, in the discretion of the Arctic Glacier Party. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein or required by the Commitment Letter or Definitive Documents, each of the Arctic Glacier Parties is hereby directed, until further Order of this Court: (a) to make no payments of principal,



interest thereon or otherwise on account of amounts owing by such Arctic Glacier Party to any of its creditors as of this date, except in respect of interest, costs and expenses payable under the First Lien Debt (as defined in the McMahon Affidavit) and the TD Obligations (as defined in the McMahon Affidavit); (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

11. THIS COURT ORDERS that each of the Arctic Glacier Parties shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Commitment Letter or Definitive Documents, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations and dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or \$2 million in the aggregate, and complete any transactions provided for in the Commitment Letter or Definitive Documents, including the sale of the land and building located in Huntington, NY, permitted by the terms of the Commitment Letter or Definitive Documents, without reference to the foregoing dollar limits;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the applicable employer and such employee or, failing such agreement, to deal with the consequences thereof in accordance with applicable law;
- (c) in accordance with paragraphs 12 and 13, vacate, abandon or quit any leased premises and/or repudiate any real property lease and any ancillary agreements relating to any leased premises, on not less than seven (7) days' notice in writing to the relevant landlord on such terms as may be agreed upon between the relevant Arctic Glacier Party and such landlord or, failing such agreement, to deal with the consequences thereof in the Plan or otherwise;

- (d) repudiate such of its arrangements or agreements of any nature whatsoever, whether oral or written, as the Arctic Glacier Parties deem appropriate on such terms as may be agreed upon between the relevant Arctic Glacier Party and such counter-parties or, failing such agreement, to deal with the consequences thereof in the Plan or otherwise; and
- (e) in accordance with the SISP (as hereinafter defined), pursue all avenues of (i) refinancing and recapitalization and (ii) all purchase offers for material parts of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or recapitalization or any sale (except as permitted by subparagraph (a) of this section),

all of the foregoing to permit the Arctic Glacier Parties to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. THIS COURT ORDERS that an Arctic Glacier Party shall provide each of the relevant landlords with notice of the Arctic Glacier Party’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes an Arctic Glacier Party’s entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Arctic Glacier Party, or by further Order of this Court upon application by the Arctic Glacier Party on at least two (2) days notice to such landlord and any such secured creditors. If an Arctic Glacier Party disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Arctic Glacier Party's claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the

effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Arctic Glacier Parties and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Arctic Glacier Parties in respect of such lease or leased premises and such landlord shall be entitled to notify the Arctic Glacier Parties of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **INTER-COMPANY BALANCES CHARGE**

14. THIS COURT ORDERS that, subject to the terms of the Commitment Letter and the Definitive Documents:

- (a) (i) AGI and AGIF (collectively "**Arctic Canada**") are authorized to make loans, advances or transfers of funds to AGII, the Additional Applicants and Glacier LP (collectively "**Arctic U.S.**") from time to time in accordance with the Cash Management System; and (ii) Arctic U.S. is hereby authorized to repay funds previously advanced to Arctic U.S. by Arctic Canada from time to time in accordance with the Cash Management System; and,
- (b) (i) Arctic U.S. is hereby authorized to make loans, advances or transfers of funds to Arctic Canada from time to time in accordance with the Cash Management System; and (ii) Arctic Canada is hereby authorized to repay funds previously advanced to Arctic Canada by Arctic U.S. from time to time in accordance with the Cash Management System.

15. THIS COURT ORDERS that Arctic Canada shall be entitled to the benefits of, and is hereby granted, a charge (the "**Canada Inter-Company Charge**") on the Property of Arctic U.S. in an amount equal to but not exceeding the aggregate amounts actually

outstanding at any given time based on advances made by Arctic Canada to Arctic U.S. pursuant to the authorization granted under sub-paragraph 14(a) herein from and after the date of this Order.

16. THIS COURT ORDERS that Arctic U.S. shall be entitled to the benefits of, and is hereby granted, a charge (the “**U.S. Inter-Company Charge**”) on the Property of Arctic Canada in an amount equal to but not exceeding the aggregate amounts actually outstanding at any given time based on advances made by Arctic U.S. to Arctic Canada pursuant to the authorization granted under sub-paragraph 14(b) herein from and after the date of this Order. The Canada Inter-Company Charge and the U.S. Inter-Company Charge are referred to herein collectively as the “**Inter-Company Balances Charge**”. The Inter-Company Balances Charge shall have the priority set out in paragraph 57 hereof.

#### **KEY EMPLOYEE RETENTION PLAN**

17. THIS COURT ORDERS that the Key Employee Retention Plan, approved by the members of the board of trustees of AGIF on February 16, 2012 (the “**KERP**”), as attached as a confidential exhibit to the McMahon Affidavit, between AGI and certain key employees listed therein (the “**Key Employees**”) be and is hereby approved and given full force and effect in accordance with its terms, and AGI is hereby directed to make the payments provided for thereunder, when due.

18. THIS COURT ORDERS the Key Employees shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property, as security for all amounts now or hereafter owing to the Key Employees pursuant to the KERP to a total amount of C\$2,600,000. The KERP Charge shall have the priority set out in paragraph 57 hereof.

#### **MARKETING OF INVESTMENT OPPORTUNITY**

19. THIS COURT ORDERS AND DIRECTS the Arctic Glacier Parties to immediately commence a Sale and Investor Solicitation Process attached hereto as Schedule “B” to this 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.

20. THIS COURT ORDERS that the SISP is hereby approved and the Arctic Glacier Parties, the Monitor, the Financial Advisor and the CPS (both as defined below) are hereby authorized and directed to perform each of their obligations thereunder.

21. THIS COURT ORDERS that the engagement of TD Securities Inc. as financial advisor to the Arctic Glacier Parties (the “**Financial Advisor**”) pursuant to an engagement letter dated September 16, 2010 between the Financial Advisor and AGIF, as amended and extended (collectively the “**Engagement Letter**”) attached as Confidential Exhibit 2 to the McMahon Affidavit, is hereby approved. AGIF is authorized, *nunc pro tunc*, to enter into the Engagement Letter and is directed to carry out and perform its obligations thereunder (including payment of amounts due to be paid pursuant to the terms of the Engagement Letter) and the Engagement Letter shall be binding upon AGIF.

22. THIS COURT ORDERS that all claims of the Financial Advisor pursuant to the Engagement Letter are not claims that may be compromised pursuant to the Plan, and shall be treated as unaffected in any Plan, any proposal under the *Bankruptcy and Insolvency Act* (the “**BIA**”) or any other restructuring and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Financial Advisor pursuant to the terms of the Engagement Letter.

23. THIS COURT ORDERS that a charge (the “**Financial Advisor Charge**”) is hereby granted to the Financial Advisor in the maximum amount of US\$2,000,000 over the Property, which charge shall be security for all amounts due to be paid to the Financial Advisor pursuant to the terms of the Engagement Letter, but shall not secure any indemnity or any fees or expenses incurred by the Financial Advisor in connection with any right of indemnity included in the Engagement Letter. The Financial Advisor Charge shall have the priority set out in paragraph 57 hereof.

24. THIS COURT ORDERS that the Financial Advisor, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to

any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its engagement by the Arctic Glacier Parties as Financial Advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the Financial Advisor in performing its obligations under the Engagement Letter.

#### **APPOINTMENT OF CHIEF PROCESS SUPERVISOR**

25. THIS COURT ORDERS that 7088418 Canada Inc. o/a Grandview Advisors is hereby appointed as the Chief Process Supervisor (the “CPS”) of the Arctic Glacier Parties pursuant to the terms of the CPS Engagement Letter (as defined below). The CPS is responsible for overseeing and directing the SISP for the benefit of all parties affected by these proceedings, reporting to the Court concerning the SISP and otherwise performing the functions set out in the CPS Engagement Letter. The CPS shall not be or be deemed to be a trustee, director, officer or employee of any of the Arctic Glacier Parties and shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder and under the CPS Engagement Letter, be deemed to have taken possession or control of the Property, or any part thereof, or managed the Business.

26. THIS COURT ORDERS that the terms of the CPS’ engagement shall be those set out in the engagement letter between the CPS and AGI attached to the McMahon Affidavit as Exhibit “A” (the “CPS Engagement Letter”) and the CPS Engagement Letter shall be binding upon AGI. The CPS Engagement Letter shall not be amended without prior approval of this Court.

27. THIS COURT ORDERS that the CPS is hereby authorized to file periodic reports concerning the SISP, shall make recommendations to the Arctic Glacier Parties as it may consider appropriate and work together with the Arctic Glacier Parties, the Financial Advisor and the Monitor to facilitate the SISP. Subject to paragraph 43(d) hereof, the Agent may consult with the CPS. The CPS may apply to the Court for directions as it

considers appropriate in the conduct of its duties hereunder. The CPS is hereby authorized to retain counsel.

28. THIS COURT ORDERS that the fees, expenses and any other amount payable to the CPS under and pursuant to the CPS Engagement Letter are secured by the Administration Charge (as defined below) and that any claims of the CPS under the CPS Engagement Letter are not claims that may be compromised pursuant to the Plan, and shall be treated as unaffected in any Plan, any proposal under the BIA or any other restructuring and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Chief Process Supervisor pursuant to the terms of the CPS Engagement Letter.

29. THIS COURT ORDERS that the CPS shall have no liability with respect to any and all losses, claims, damages or liabilities, of any nature or kind, to any person in connection with or as a result of either its appointment as CPS or any matter referred to in the CPS Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct of the CPS in performing its obligations under the CPS Engagement Letter or this Order. In particular, the CPS shall incur no liability, whether statutory or otherwise, as a trustee, director or officer of the Arctic Glacier Parties.

#### **NO PROCEEDINGS AGAINST THE ARCTIC GLACIER PARTIES OR THE PROPERTY**

30. THIS COURT ORDERS that until and including March 23, 2012, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of any of the Arctic Glacier Parties or the Monitor, or affecting the Business or the Property, except with the written consent of the Arctic Glacier Parties and the Monitor, or with leave of this Court, and any and all such Proceedings currently under way against or in respect of the Arctic Glacier Parties or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

31. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “Persons” and each being a “Person”) against or in respect of the Arctic Glacier Parties or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Arctic Glacier Parties and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Arctic Glacier Parties to carry on any business which they are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

32. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Arctic Glacier Parties, except with the written consent of the Arctic Glacier Parties and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

33. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Arctic Glacier Parties or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Arctic Glacier Parties, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Arctic Glacier Parties, and that each of the Arctic Glacier Parties shall be entitled to the continued use of its current premises, telephone numbers, facsimile



numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Arctic Glacier Parties in accordance with normal payment practices of the Arctic Glacier Parties or such other practices as may be agreed upon by the supplier or service provider and each of the Arctic Glacier Parties and the Monitor, or as may be ordered by this Court.

### **CRITICAL SUPPLIERS**

34. THIS COURT ORDERS AND DECLARES that each of the entities listed in Schedule "C" hereto is a critical supplier to AGI as contemplated by Section 11.4 of the CCAA (each, a "**Critical Supplier**").

35. THIS COURT ORDERS that each Critical Supplier shall continue to supply AGI with goods and/or services on terms and conditions that are consistent with existing arrangements and past practices. No Critical Supplier may require the payment of a deposit or the posting of any security in connection with the supply of goods and/or services to AGI after the date of this Order.

36. THIS COURT ORDERS that each Critical Supplier shall be entitled to the benefit of and is hereby granted a charge (together, the "**Critical Supplier Charge**") on the Property of AGI in an amount equal to the value of the goods and services supplied by such Critical Supplier and received by AGI after the date of this Order less all amounts paid to such Critical Supplier in respect of such goods and services. The Critical Supplier Charge shall have the priority set out in paragraph 57 hereof.

### **NON-DEROGATION OF RIGHTS**

37. THIS COURT ORDERS that, subject to paragraphs 34 to 36 above relating to Critical Suppliers, no Person other than a Critical Supplier shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person other than a Critical Supplier be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Arctic

Glacier Parties. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

38. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future trustees, directors or officers of the Arctic Glacier Parties with respect to any claim against such trustees, directors or officers that arose before the date hereof and that relates to any obligations of the Arctic Glacier Parties whereby such trustees, directors or officers are alleged under any law to be liable in their capacity as trustees, directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Arctic Glacier Parties, if one is filed, is sanctioned by this Court or is refused by the creditors of the Arctic Glacier Parties or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

39. THIS COURT ORDERS that the Arctic Glacier Parties shall indemnify their trustees, directors and officers against obligations and liabilities that they may incur as trustees, directors or officers of the Arctic Glacier Parties after the commencement of the within proceedings, except to the extent that, with respect to any trustee, officer or director, the obligation or liability was incurred as a result of the trustee's, the director's or the officer's gross negligence or wilful misconduct.

40. THIS COURT ORDERS that the trustees, directors and officers of the Arctic Glacier Parties shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of US\$2,700,000, as security for the indemnity provided in paragraph 39 of this Order. The Directors' Charge shall have the priority set out in paragraphs 57 herein.

41. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the trustees, directors and officers of

the Arctic Glacier Parties shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 39 of this Order.

#### **APPOINTMENT OF MONITOR**

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

43. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Arctic Glacier Parties' receipts and disbursements;
- (b) perform its obligations under the SISP;
- (c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the SISP and such other matters as may be relevant to the proceedings herein;
- (d) assist the Arctic Glacier Parties, to the extent required by the Arctic Glacier Parties, in their dissemination to the Agent and its counsel of financial and other information, which may be used in these proceedings, including reporting on the basis specified in the Commitment Letter or Definitive Documents (each as defined below), and consult with the Agent as the Monitor deems advisable (subject to the restrictions set out herein), and for

greater certainty, the Monitor, the Financial Advisor, the CPS and the Arctic Glacier Parties shall not provide information to the Agent or the DIP Lenders concerning the SISP except in accordance with the SISP;

- (e) assist the Arctic Glacier Parties in the preparation of Cash Flow Projections (as defined below);
- (f) assist the CPS in the performance of its duties as set out in this Order and the CPS Engagement Letter;
- (g) advise the Arctic Glacier Parties in their preparation of the Arctic Glacier Parties' cash flow statements and reporting required by the Agent, which information shall be reviewed with the Monitor and delivered to the Agent and its counsel as specified in the Commitment Letter or Definitive Documents (each as defined herein);
- (h) advise the Arctic Glacier Parties in the development of the Plan and any amendments to the Plan;
- (i) assist the Arctic Glacier Parties, to the extent required by the Arctic Glacier Parties, with the holding and administering of creditors' meetings and other required stakeholder meetings, if any, for voting on the Plan;
- (j) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Arctic Glacier Parties, to the extent that is necessary to adequately assess the business and financial affairs of the Arctic Glacier Parties or to perform its duties arising under this Order;
- (k) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (l) perform such other duties as are required by this Order or by this Court from time to time.

44. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

45. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property or any property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, *The Environment Act* (Manitoba), *The Water Resources Conservation Act* (Manitoba), *The Contaminated Sites Remediation Act* (Manitoba), *The Dangerous Goods Handling and Transportation Act* (Manitoba), *The Public Health Act* (Manitoba) or *The Workplace Safety and Health Act* (Manitoba), regulations thereunder or any other similar, municipal, federal, provincial or state law of any jurisdiction where the Arctic Glacier Parties carry on business or have assets (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property or any other property within the meaning of any Environmental Legislation, unless it is actually in possession.

46. THIS COURT ORDERS that the Monitor shall provide any creditor of the Arctic Glacier Parties with information provided by the Arctic Glacier Parties in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Arctic Glacier Parties is confidential, the Monitor

shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Arctic Glacier Parties may agree.

47. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

48. THIS COURT ORDERS that the Monitor, counsel to the Monitor, counsel to the Agent, counsel to the trustees of AGIF, counsel to The Toronto-Dominion Bank (“TD”), counsel to the directors and officers of the Arctic Glacier Parties, and counsel to the Arctic Glacier Parties shall be paid their reasonable fees and disbursements, in each case at their standard rates or at the rates and charges agreed by the Arctic Glacier Parties, by the Arctic Glacier Parties as part of the costs of these proceedings. The Arctic Glacier Parties are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Agent and counsel for the Arctic Glacier Parties on a weekly or a bi-weekly basis and, in addition, the Arctic Glacier Parties are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Arctic Glacier Parties, retainers in the amounts of \$125,000, \$125,000 and \$350,000 , respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time. The Arctic Glacier Parties are hereby authorized and directed to pay the accounts of counsel for TD on a bi-weekly basis from the TD LC Security (as defined in the McMahon Affidavit).

49. THIS COURT ORDERS that at the request of the Arctic Glacier Parties, the Agent, any other party in interest or this Court, the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of this Court, but nothing herein shall fetter this Court’s discretion to refer such matters to a Master of this Honourable Court.

50. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the CPS, counsel to the trustees of AGIF, counsel to the directors and officers of the Arctic Glacier Parties, and counsel to the Arctic Glacier Parties shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$2,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraph 57 hereof. The beneficiaries of the Administration Charge, at the request of the Monitor, shall be required to provide the Monitor with bi-weekly updates regarding the unpaid amounts owing to them that are secured by the Administration Charge.

#### **DIP FINANCING**

51. THIS COURT ORDERS that the Arctic Glacier Parties are hereby authorized and empowered to obtain and borrow under a credit facility (the “**DIP Loan**”) from the Secured Lenders (the Secured Lenders in their capacity as lenders under the credit facility hereby authorized are called the “**DIP Lenders**”) in order to finance the Arctic Glacier Parties’ working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed a combined total of C\$26,000,000 and US\$24,000,000 unless permitted by further Order of this Court.

52. THIS COURT ORDERS that such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Arctic Glacier Parties and the Agent dated as of February 21, 2012 (the “**Commitment Letter**”), filed.

53. THIS COURT ORDERS that the Arctic Glacier Parties are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the Commitment Letter or as may be reasonably required by the Agent pursuant to the terms thereof, and the Arctic Glacier Parties are hereby authorized and directed to pay and perform all of its indebtedness,

interest, fees, liabilities and obligations to the Agent under and pursuant to the Commitment Letter and the Definitive Documents for the benefit of the DIP Lenders as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

54. THIS COURT ORDERS that the DIP Lenders shall be entitled to the benefit of and are hereby granted a charge (the “**DIP Lenders’ Charge**”) on the Property, which DIP Lenders’ Charge shall not secure an obligation that exists before this Order is made. The DIP Lenders’ Charge shall have the priority set out in paragraphs 57 hereof.

55. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the Agent may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lenders’ Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Commitment Letter, the Definitive Documents or the DIP Lenders’ Charge, the Agent, upon 4 days’ notice to the Arctic Glacier Parties and the Monitor, may exercise any and all of its rights and remedies against the Arctic Glacier Parties or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lenders’ Charge, including without limitation, to cease making advances to the Arctic Glacier Parties and set off and/or consolidate any amounts owing by the Agent to the Arctic Glacier Parties against the obligations of the Arctic Glacier Parties to the Agent under the Commitment Letter, the Definitive Documents, the Credit Agreements (as defined herein) or the DIP Lenders’ Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Arctic Glacier Parties and for the appointment of a trustee in bankruptcy of the Arctic Glacier Parties; and



- (c) the foregoing rights and remedies of the Agent shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Arctic Glacier Parties or the Property.

56. THIS COURT ORDERS AND DECLARES that the claims of the DIP Lenders in relation to the DIP Loan are not claims that may be compromised pursuant to the Plan, and shall be treated as unaffected in any Plan, any proposal under the BIA or any other restructuring and no such Plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the DIP Lenders pursuant to the terms of the Commitment Letter and the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

57. THIS COURT ORDERS that the priorities of the Administration Charge, Financial Advisor Charge, Directors' Charge, DIP Lenders' Charge, KERP Charge, Critical Supplier Charge, and Inter-Company Balances Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – The Administration Charge (to the maximum amount of US\$2,000,000) and the Financial Advisor Charge (to the maximum amount of an additional US\$2,000,000) on a *pari passu* basis;

Second – The Directors' Charge (to the maximum amount of US\$2,700,000);

Third – The Critical Supplier Charge (to the maximum amount of C\$1,000,000, only as against the assets of AGI)

Fourth - The DIP Lenders' Charge (to the maximum amount of C\$28,600,000 plus US\$26,400,000);

Fifth – The KERP Charge (to the maximum amount of C\$2,600,000) and the Critical Supplier Charge (for any amounts above C\$1,000,000) on a *pari passu* basis (with the Critical Supplier Charge as against the assets of AGI only); and,

## Sixth – The Inter-Company Balances Charge.

58. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

59. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, notwithstanding the order of perfection or attachment, except for (i) any validly perfected purchase money security interest in favour of a secured creditor, (ii) any statutory Encumbrance existing on the date of this Order in favour of any Person which is a “secured creditor”, as defined in the CCAA, in respect of any amounts under the Wage Earners’ Protection Program that are subject to a super priority claim under the BIA, including source deductions from wages, employer health tax, workers compensation, vacation pay and banked overtime for employees, or (iii) the TD LC Security, as defined in the McMahon Affidavit.

60. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Arctic Glacier Parties shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Arctic Glacier Parties also obtain the prior written consent of the Monitor, the Agent and the Chargees (as defined below) or further Order of this Court.

61. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any

federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Arctic Glacier Parties, and notwithstanding any provision to the contrary in any Agreement:

- (a) Neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by any Arctic Glacier Party of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Arctic Glacier Parties entering into the Commitment Letter, the creation of the Charges or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Arctic Glacier Parties pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

62. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Arctic Glacier Parties’ interest in such real property.

#### **DOCUMENTS TO BE SEALED**

63. THIS COURT ORDERS that the KERP, the Financial Advisor Engagement and the DIP Fee Letter, which are attached as Confidential Exhibits 1, 2 and 3, respectively, to the McMahon Affidavit, 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.

### **SERVICE AND NOTICE**

64. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe and Mail, the Winnipeg Free Press and The Wall Street Journal (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against any Arctic Glacier Party of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

65. THIS COURT ORDERS that the Arctic Glacier Parties and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile or electronic transmission to the Arctic Glacier Parties' creditors or other interested parties at their respective addresses as last shown on the records of the Arctic Glacier Parties and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

66. THIS COURT ORDERS that counsel for the Arctic Glacier Parties shall prepare and keep current a service list ("**Service List**") containing the name and contact information (which may include the address, telephone number and facsimile number or email address) for service to: the Arctic Glacier Parties; the Monitor; and each creditor or other interested Person who has sent a request, in writing, to counsel for the Arctic Glacier Parties to be added to the Service List. The Service List shall indicate whether each Person on the Service List has elected to be served by email or facsimile, and failing such election the Service List shall indicate service by email. The Service List shall be

posted on the website of the Monitor at the address indicated in paragraph 67 herein. For greater certainty, creditors and other interested Persons who have received notice in accordance with paragraph 64(b) of this Order and/or have been served in accordance with paragraph 65 of this Order, and who do not send a request, in writing, to counsel for the Arctic Glacier Parties to be added to the Service List, shall not be required to be further served in these proceedings.

67. THIS COURT ORDERS that the Arctic Glacier Parties, the Monitor, and any party on the Service List may serve any court materials in these proceedings by facsimile or by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier). Service shall be deemed valid and sufficient if sent in this manner.

#### **GENERAL**

68. THIS COURT ORDERS that any of the Arctic Glacier Parties or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

69. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Arctic Glacier Parties, the Business or the Property.

70. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Arctic Glacier Parties, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Arctic Glacier Parties and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the

Arctic Glacier Parties and the Monitor and their respective agents in carrying out the terms of this Order.

71. THIS COURT ORDERS that each of the Arctic Glacier Parties and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

73. THIS COURT ORDERS that any interested party (including the Arctic Glacier Parties and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

74. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Central Standard/Daylight Time on the date of this Order.

A handwritten signature in cursive script, appearing to read "Edward J. Fox", written over a horizontal line.

**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" - Sale and Investor Solicitation Process**



## Schedule “[●]”

### Arctic Glacier Sale and Investor Solicitation Process

#### Introduction

On February ●, 2012, Arctic Glacier Income Fund (“AGIF”) and its subsidiaries listed on Appendix “A” hereto (sometimes referred to collectively as the “Applicants”) obtained an initial order (the “Initial Order”) under the *Companies’ Creditors Arrangement Act* (“CCAA”) from the Manitoba Court of Queen’s Bench (the “Court”). As part of the Initial Order, the Court approved the Sale and Investor Solicitation Process set forth herein (the “SISP”). The purpose of the SISP is to seek Sale Proposals and Investment Proposals from Qualified Bidders and to implement one or a combination of them in respect of the Property and the Business.

This SISP describes, among other things: (a) the Property available for sale and the opportunity for an investment in the Business/Arctic, (b) the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Property and the Business, (c) the manner in which bidders and bids become Qualified Bidders and Qualified Bids, respectively, (d) the evaluation of bids received, (e) the ultimate selection of a Successful Bidder, and (f) the process for obtaining such approvals (including the approval of the Court) as may be necessary or appropriate in respect of a Successful Bid.

Capitalized terms used in this SISP and not otherwise defined have the meanings given to them in paragraph 1 below.

#### Defined Terms

1. The following capitalized terms have the following meanings when used in this SISP:
  - (a) “Arctic” means AGIF and all of its subsidiaries.
  - (b) “Business” means the business of Arctic.
  - (c) “Business Day” means a day (other than Saturday or Sunday) on which banks are generally open for business in Toronto, Ontario and Winnipeg, Manitoba.
  - (d) “Claims and Interests” is defined in paragraph 6.
  - (e) “Confidential Information Memorandum” is defined in paragraph 3.
  - (f) “Credit Bid” shall mean any offer submitted by the Lenders in the form of a Sale Proposal or Investment Proposal, pursuant to which the consideration offered includes an exchange for, and in full and final satisfaction of, all or a portion (as determined by the Lenders, in their discretion) of their secured claims including their secured claims pursuant to the first and second lien credit facilities of Arctic and any other financing provided by the Lenders including debtor-in-possession financing. For the avoidance of doubt, the Lenders may submit a Credit Bid, offering as consideration an exchange of all or a portion of the Lender Claims for an ownership interest in the Business and may participate as a bidder in any auction authorized by any court.
  - (g) “CPS” is defined in paragraph 2.

- (h) "Deposit" is defined in paragraph 22.
- (i) "Final Bid" is defined in paragraph 21.
- (j) "Financial Advisor" means TD Securities Inc.
- (k) "Form of Investment Agreement" means the form of equity investment agreement to be developed by Arctic in consultation with the Monitor and the Financial Advisor and provided to Qualified Bidders that submitted a Qualified LOI for an Investment Proposal and have not been eliminated in accordance with paragraph 10, which agreement shall provide for the direct payment of net proceeds to the Lenders on account of the Lender Claims on completion of the transaction contemplated thereby.
- (l) "Form of Purchase Agreement" means the form of purchase and sale agreement to be developed by Arctic in consultation with the Monitor and the Financial Advisor and provided to Qualified Bidders that submitted a Qualified LOI for a Sale Proposal and have not been eliminated in accordance with paragraph 10, which agreement shall provide for the direct payment of net proceeds to the Lenders on account of the Lender Claims on completion of the transaction contemplated thereby.
- (m) "Investment Proposal" is defined in paragraph 14.
- (n) "Lender Claims" means the aggregate amount owing to the agent and the Lenders arising from or related to the first and second lien credit facilities of Arctic and any other financing provided by the Lenders (including debtor-in-possession financing), which shall include to the maximum extent permissible under applicable documentation and law, without limitation, all accrued and unpaid principal, interest, default interest, premiums and reasonable fees, costs, charges and expenses all as may be due and payable under the aforementioned credit facilities and/or other financing and any ancillary documents (which shall include the reasonable fees of any and all legal and financial advisors to the Lenders, including, without limitation, Torys LLP and Milbank, Tweed, Hadley & McCloy LLP).
- (o) "Lenders" mean CPPIB Credit Investments Inc., West Face Long Term Opportunities Limited Partnership, West Face Long Term Opportunities (USA) Limited Partnership, West Face Long Term Opportunities Master Fund L.P., West Face Long Term Opportunities Global Master L.P., and all of foregoing parties' assignees in respect of Lender Claims.
- (p) "LOI" is defined in paragraph 11.
- (q) "Monitor" means Alvarez & Marsal Canada Inc.
- (r) "NDA" means a non-disclosure agreement in form and substance satisfactory to the Monitor, the CPS, the Financial Advisor, and the Applicants, which will inure to the benefit of any purchaser of the Property or any investor in the Business or Arctic.
- (s) "Outside Date" means July 31, 2012, or such later date as may be agreed to by the Applicants, the Financial Advisor, the CPS, the Monitor and the Lenders.
- (t) "Phase 1" is defined in paragraph 11.
- (u) "Phase 1 Bid Deadline" is defined in paragraph 13.
- (v) "Phase 2" is defined in paragraph 18.

- (w) "Phase 2 Bid Deadline" is defined in paragraph 22.
- (x) "Potential Bidder" is defined in paragraph 8.
- (y) "Property" means all of property, assets and undertakings of Arctic or the relevant entities within Arctic (which may include, in the case of any such entity, the shares in the capital of any other entities within Arctic), as applicable in the context of any bid.
- (z) "Qualified Bid" means: (i) a Credit Bid; or (ii) a third party offer or combination of third party offers, in the form of a Sale Proposal(s) or an Investment Proposal(s) or including elements of both, the aggregate purchase price or funds to be invested are in an amount sufficient to pay the Lender Claims in full in cash and which, in any case, meets the requirements of paragraph 22.
- (aa) "Qualified Bidder" is defined in paragraph 9. For the avoidance of doubt, the Lenders are, collectively, a Qualified Bidder to make a Credit Bid.
- (bb) "Qualified LOI" is defined in paragraph 14.
- (cc) "Sale Proposal" is defined in paragraph 14.
- (dd) "Selected Qualified Bid" is defined in paragraph 30.
- (ee) "Special Committee" means a committee established by the Trustees of AGIF to supervise, among other things, the implementation of the SISP.
- (ff) "Successful Bid" is defined in paragraph 30.
- (gg) "Successful Bidder" is defined in paragraph 30.

### **Supervision of the SISP**

2. The Monitor will supervise, in all respects, the SISP and any attendant sales or investments and, in particular, will supervise the Financial Advisor's performance under its engagement by Arctic in connection therewith. Arctic is required to assist and support the efforts of the Monitor, the Financial Advisor and the Chief Process Supervisor ("CPS") as provided for herein. In the event that there is disagreement or clarification required as to the interpretation or application of this SISP or the responsibilities of the Monitor, the Financial Advisor, the CPS or Arctic hereunder, the Court will have jurisdiction to hear such matter and provide advice and directions, upon application of the Monitor or Arctic. For the avoidance of doubt, with respect to the Monitor's role in regards to the SISP, the terms of the Initial Order concerning the Monitor's rights and duties in this CCAA proceeding shall govern.

### **Sale and Investment Opportunity**

3. A confidential information memorandum (the "Confidential Information Memorandum") describing the opportunity to acquire all or a portion of the Property or invest in the Business/Arctic will be made available by the Financial Advisor to Qualified Bidders. One or more Qualified Bids for less than substantially all of the Property will not be precluded from consideration, either alone or in combination as a Qualified Bid, Final Bid or a Successful Bid.
4. A bid may, at the option of the Qualified Bidder, involve, among other things, one or more of the following: a restructuring, recapitalization or other form of reorganization of the business and affairs of Arctic as a going concern; a sale of the Property to the Qualified Bidder or to a newly

formed acquisition entity; or a plan of compromise or arrangement pursuant to the CCAA or any corporate or other applicable legislation.

**“As Is, Where Is”**

5. The sale of the Property or investment in the Business/Arctic will be on an “as is, where is” basis and without surviving representations or warranties of any kind, nature, or description by the Monitor, Arctic or any of their respective agents or estates, except to the extent set forth in the definitive sale or investment agreement executed with a Successful Bidder.

**Free Of Any And All Claims And Interests**

6. In the event of a sale of all or a portion of the Property, all of the rights, title and interests of Arctic in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests thereon and there against (collectively, the “Claims and Interests”) pursuant to such court orders as may be desirable, except to the extent otherwise set forth in the definitive sale or investment agreement executed with a Successful Bidder.

**Publication Notice**

7. As soon as reasonably practicable after the granting of the Initial Order, but in any event no more than five (5) Business Days after the issuance of the Initial Order, the Monitor will cause a notice of the SISP (and such other relevant information which the Monitor, in consultation with the Financial Advisor and Arctic, considers appropriate) to be published in The Wall Street Journal (National Edition), The New York Times (New York City Edition) and The Globe and Mail (National Edition). On the same date, the Applicants will issue a press release setting out the notice and such other information, in form and substance satisfactory to the Monitor in consultation with the Financial Advisor and the Applicants, with Canada Newswire designating dissemination in Canada and major financial centres in the United States.

**Participation Requirements**

8. In order to participate in the SISP, each person (a “Potential Bidder”) must deliver to the Financial Advisor at the address specified in Schedule “A” hereto (including by email or fax transmission):
  - (a) a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the principals of the Potential Bidder;
  - (b) to the extent that a Potential Bidder has already signed an NDA, the parties thereto may execute an addendum (in form and substance satisfactory to the Monitor, CPS, the Financial Advisor and the Applicants) providing that the Company shall be entitled to enforce the terms of such NDA; and
  - (c) an executed NDA which shall include provisions whereby the Potential Bidder agrees to accept and be bound by the provisions contained herein.
9. A Potential Bidder that has executed an NDA, and has delivered the documents and information described above, and that the Monitor, in its reasonable business judgement, in consultation with the Financial Advisor, the CPS and the Applicants, determines is likely, based on the availability of financing, experience and other considerations, to be able to consummate a Sale Proposal or an Investment Proposal on or before the Outside Date will be deemed a “Qualified Bidder,” and will

be promptly notified of such determination by the Financial Advisor. For the avoidance of doubt, the Lenders collectively are a Qualified Bidder.

10. At anytime during Phase 1 or Phase 2, the Monitor may, in its reasonable business judgment and after consultation with the Financial Advisor, the CPS and Arctic, recommend to the Special Committee that a Qualified Bidder (other than the Lenders) be eliminated from the SISP. If the Special Committee accepts the Monitor's recommendation, such bidder will be eliminated from the SISP and will no longer be a "Qualified Bidder" for the purposes of this SISP. If the Special Committee does not accept the Monitor's recommendation, the Monitor will seek advice and directions of the Court.

### **SISP – Phase 1**

#### **Phase 1 Initial Timing**

11. For a period of 35 days following the date of the Initial Order ("Phase 1"), the Financial Advisor (with the assistance of Arctic and the CPS, and under the supervision of the Monitor and in accordance with this SISP) will solicit non-binding indications of interest in the form of non-binding letters of intent ("LOIs") from prospective strategic or financial parties to acquire the Property or to invest in the Business/Arctic.

#### **Due Diligence**

12. The Financial Advisor will provide each Qualified Bidder with a copy of the Confidential Information Memorandum and access to an electronic data room of due diligence information. The Monitor, the Financial Advisor, the CPS and Arctic make no representation or warranty as to (i) the information contained in the Confidential Information Memorandum or the electronic data rooms, (ii) provided through the due diligence process in Phase 1 or Phase 2 or (iii) otherwise made available, except to the extent expressly contemplated in any definitive sale or investment agreement with a Successful Bidder executed and delivered by Arctic.

#### **Non-Binding Letters of Intent from Qualified Bidders**

13. A Qualified Bidder that wishes to pursue a Sale Proposal or Investment Proposal (other than a Credit Bid) must deliver a LOI to the Financial Advisor at the address specified in Schedule "A" hereto (including by email or fax transmission), so as to be received by it not later than 5:00 PM (Central Time) on or before 35 days following the date of the Initial Order, unless such day is not a Business day, in which case, on the next Business Day] (the "Phase 1 Bid Deadline").
14. A LOI so submitted will be considered a qualified LOI (a "Qualified LOI") only if:
  - (a) the LOI is submitted on or before the Phase 1 Bid Deadline by a Qualified Bidder;
  - (b) it contains an indication of whether the Qualified Bidder is offering to:
    - (i) acquire all, substantially all or a portion of the Property (a "Sale Proposal"), or
    - (ii) make an investment in, or refinance the Business/Arctic (an "Investment Proposal");
  - (c) in the case of a Sale Proposal, it identifies or contains the following:
    - (i) the purchase price range in Canadian dollars (and U.S. dollar equivalent), including details of any liabilities to be assumed by the Qualified Bidder;

- (ii) the Property that is expected to be subject to the transaction and any of the Property expected to be excluded;
  - (iii) specific indication of the sources of capital for the Potential Bidder and preliminary evidence of the availability of such capital, or such other form of financial disclosure and credit-quality support or enhancement that will allow the Monitor, the Financial Advisor, the CPS and the Applicants and each of their respective advisors to make a reasonable business or professional judgment as to the Potential Bidder's financial or other capabilities to consummate the transaction;
  - (iv) the structure and financing of the transaction (including, but not limited to, the sources of financing of the purchase price, preliminary evidence of the availability of such financing, steps necessary and associated timing to obtain such financing and any related contingencies, as applicable);
  - (v) any anticipated corporate, unit holder, shareholder, internal or regulatory approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - (vi) specific statements concerning the treatment of employees and plans for the ongoing involvement and roles of Arctic employees;
  - (vii) additional due diligence required to be conducted during Phase 2, if any;
  - (viii) all conditions to closing that the Qualified Bidder may wish to impose; and
  - (ix) any other terms or conditions of the Sale Proposal which the Qualified Bidder believes are material to the transaction;
- (d) in the case of an Investment Proposal, it identifies the following:
- (i) a detailed description of the structure of the transaction including, the direct or indirect investment target (whether AGIF or another entity within Arctic);
  - (ii) the aggregate amount of the equity and debt investment to be made in the Business/Arctic in Canadian dollars (and U.S. dollar equivalent) (including the sources of such capital, preliminary evidence of the availability of such capital and steps necessary and associated timing to obtain the capital and any related contingencies, as applicable);
  - (iii) the underlying assumptions regarding the pro forma capital structure (including the form and amount of anticipated equity and/or debt levels, debt service fees, interest or dividend rates, amortization, voting rights or other protective provisions (as applicable), redemption, prepayment or repayment attributes and any other material attributes of the investment);
  - (iv) equity, if any, to be allocated to the secured and unsecured creditors of Arctic;
  - (v) specific indication of the sources of capital for the Potential Bidder and preliminary evidence of the availability of such capital, or such other form of financial disclosure and credit-quality support or enhancement that will allow the Monitor, the Financial Advisor, the CPS and the Applicants and each of their respective advisors to make a reasonable business or professional judgment as to

the Potential Bidder's financial or other capabilities to consummate the transaction

- (vi) the structure and financing of the transaction, including a sources and uses analysis;
  - (vii) any anticipated corporate, unitholder, shareholder, internal or regulatory approvals required to close the transaction, the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - (viii) specific statements concerning the treatment of employees and plans for the ongoing involvement and roles of Arctic employees;
  - (ix) additional due diligence required to be conducted during Phase 2, if any;
  - (x) all conditions to closing that the Qualified Bidder may wish to impose; and
  - (xi) any other terms or conditions of the Investment Proposal which the Qualified Bidder believes are material to the transaction;
- (e) in the case of either a Sale Proposal or an Investment Proposal, it contains such other information as reasonably requested by the Monitor, in consultation with the Financial Advisor, the CPS and Arctic; and
- (f) the purchase price or funds to be invested, as assessed pursuant to paragraph 17 hereof, are in an amount that can reasonably be expected to be sufficient to pay the Lender Claims in full and in cash on completion of the transaction contemplated by the LOI.

15. The Monitor, in consultation with the Financial Advisor, the CPS and Arctic, may waive compliance with any one or more of the requirements specified above, except the requirement contained in paragraph 14(f) of this SISP, and deem such non-compliant bids to be a Qualified LOI. For the avoidance of doubt, the completion of any Sale Proposal or Investment Proposal shall be subject to the approval of the Court and the requirement of approval of the Court may not be waived.

**Assessment of Qualified LOIs and Continuation or Termination of SISP**

16. Within 5 Business Days following the Phase 1 Bid Deadline, or such later date as may be determined by the Monitor, in consultation with the Financial Advisor, the CPS and the Lenders, the Monitor will, in consultation with the Financial Advisor, the CPS and the Applicants, assess the Qualified LOIs received during Phase 1, if any, and will determine whether there is a reasonable prospect of obtaining a Qualified Bid. For the purpose of such consultations and evaluations, the Financial Advisor and/or the Monitor may request clarification of the terms of Qualified LOIs.
17. In assessing the Qualified LOIs, the Monitor, following consultation with the Financial Advisor, the CPS and the Applicants, will consider, among other things, the following:
- (a) the form and amount of consideration being offered;
  - (b) the demonstrated financial capability of the Qualified Bidder to consummate the proposed transaction;
  - (c) the conditions to closing of the proposed transaction; and

- (d) the estimated time required to complete the proposed transaction and whether, in the Monitor's reasonable business judgment, it is reasonably likely to close on or before the Outside Date.
18. If a Qualified LOI is received and the Monitor, in consultation with the Financial Advisor, the CPS and Arctic, determines there is a reasonable prospect of obtaining a Qualified Bid (other than a Credit Bid), the Monitor will recommend to the Special Committee that the SISP shall continue for a further 45 days in accordance with these SISP Procedures ("Phase 2"). If the Special Committee accepts the Monitor's recommendation, the SISP shall continue for a further 45 days. If the Special Committee does not accept the Monitor's recommendation, the Monitor will seek advice and directions of the Court. At any time during Phase 2, the Monitor, in consultation with the Financial Advisor, the CPS and the Applicants may extend Phase 2 by an additional 15 days (provided that in no event shall Phase 2 be longer than 60 days total).
19. If the Monitor, after consultation with the Financial Advisor, the CPS and Arctic, determines that (a) no Qualified LOI has been received, (b) there is no reasonable prospect of a Qualified LOI resulting in a Qualified Bid and the SISP moving to Phase 2, and (c) the Lenders have not yet elected to make a Credit Bid by the Phase 1 Bid Deadline, the Financial Advisor shall provide copies of the LOIs received by the Phase 1 Bid Deadline to the Lenders. Within 5 Business Days after such receipt by the Lenders of such LOIs, the Lenders may, in their sole and absolute discretion, (a) designate one or more LOIs as a Qualified LOI and/or (b) elect to make a Credit Bid. If no Qualified LOI is received or designated by the Lenders, and the Lenders elect not to make a Credit Bid, any of the Lenders, the Monitor, or Arctic may apply to the Court for further advice and directions regarding the continuation or termination of the SISP.
20. If: (a) one or more Qualified LOIs is received; and (b) the Monitor, in its reasonable business judgment, in consultation with the Financial Advisor, the CPS and the Applicants, determines that another Qualified Bidder's LOI has a reasonable prospect of becoming a Qualified Bid, the Monitor may designate such LOI as a Qualified LOI.

## Phase 2

### Due Diligence

21. During Phase 2, each Qualified Bidder with a Qualified LOI that is not eliminated from the SISP, and at the request of such Qualified Bidder, the legal and financial advisor(s) and/or lenders of such Qualified Bidder, provided that, in each case, such advisor or lender: (a) is reasonably acceptable to the Financial Advisor; and (b) has executed or is bound by an NDA, will be granted further access to such due diligence materials and information relating to the Property and the Business as the Financial Advisor, in its reasonable business judgment, in consultation with the Monitor, the CPS and the Applicants, determines, including, as appropriate, information or materials reasonably requested by Qualified Bidders, on-site presentation by senior management of Arctic, facility tours and access to further information in the electronic data room.

### Final Bids from Qualified Bidders

22. A Qualified Bidder that is not eliminated from the SISP and that wishes to pursue a Sale Proposal or Investment Proposal, including a Credit Bid in the case of the Lenders, must deliver a final binding proposal (the "Final Bid"):
- (a) in the case of a Sale Proposal, a duly authorized and executed purchase agreement based on the Form of Purchase Agreement and accompanied by a mark-up of the Form of Purchase Agreement showing amendments and modifications made thereto, together with



all exhibits and schedules thereto, and such ancillary agreements as may be required by the bidder with all exhibits and schedules thereto;

- (b) in the case of an Investment Proposal, a duly authorized and executed investment agreement based on the Form of Investment Agreement and accompanied by a mark-up of the Form of Investment Agreement showing amendments and modifications made thereto, together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the bidder with all exhibits and schedules thereto,

to the Financial Advisor at the address specified in Schedule "A" hereto (including by email or fax transmission) so as to be received by it not later than 5:00 pm (Central Time) on the date which is 45 days following the commencement of Phase 2, or such other date as determined by the Monitor, in consultation with the Financial Advisor, the CPS and the Applicants (provided that Phase 2 shall not be more than 60 days) unless in each case, such day is not a Business Day, in which case, on the next Business Day (the "Phase 2 Bid Deadline").

- 23. If the Lenders choose to submit a Credit Bid involving aggregate consideration in excess of the Lender Claims (other than in the form of assumed liabilities), such Credit Bid will only be a Qualified Bid if received on or prior to the Phase 2 Bid Deadline.

#### **Qualified Bids**

- 24. A Final Bid will be considered a Qualified Bid only if (a) it is submitted by a Qualified Bidder who submitted a Qualified LOI on or before the Phase 1 Bid Deadline or it is a Credit Bid, and (b) the Final Bid (for the avoidance of doubt, including a Credit Bid) complies with, among other things, the following requirements:

- (a) it includes a letter stating that the bidder's offer is irrevocable until the earlier of (a) the approval by a court of competent jurisdiction of a Successful Bid and (b) 45 days following the Phase 2 Bid Deadline, provided that if such bidder is selected as the Successful Bidder, its offer will remain irrevocable until the closing of the transaction with such Successful Bidder;
- (b) it includes (if not a Credit Bid) written evidence of a firm, irrevocable commitment for financing, or other evidence of ability to consummate the proposed transaction, that will allow the Monitor, in consultation with the Financial Advisor, the CPS and Arctic, to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transaction contemplated by its Final Bid;
- (c) in respect of a Sale Proposal, the Property to be included and in the case of a Investment Proposal, any Property to be divested or disclaimed prior to closing;
- (d) it includes full details of the proposed number of employees of the Applicants who will become employees of the bidder (in the case of a Sale Proposal) or shall remain as employees of the Applicants (in the case of an Investment Proposal) and, in each case, provisions setting out the terms and conditions of employment for continuing employees;
- (e) details of any liabilities to be assumed by the Qualified Bidder;
- (f) it is not conditional upon, among other things:
  - (i) the outcome of unperformed due diligence by the Qualified Bidder; or
  - (ii) obtaining financing;

- (g) it fully discloses the identity of each entity that will be sponsoring or participating in the bid, and the complete terms of such participation;
- (h) it outlines any anticipated regulatory and other approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (i) it identifies with particularity the contracts and leases the bidder wishes to assume and reject, contains full details of the bidder's proposal for the treatment of related cure costs (and provides adequate assurance of future performance thereunder); and it identifies with particularity any executory contract or unexpired lease the assumption and assignment of which is a condition to closing;
- (j) it provides a timeline to closing with critical milestones;
- (k) it includes evidence, in form and substance reasonably satisfactory to the Monitor and the Applicants, of authorization and approval from the bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the bid;
- (l) except in the case of a Credit Bid, it is accompanied by a refundable deposit (the "Deposit") in the form of a wire transfer (to a bank account specified by the Monitor), or such other form acceptable to the Monitor, payable to the order of the Monitor, in trust, in an amount equal to \$10 million, to be held and dealt with in accordance with the terms of this SISP;
- (m) it contains other information reasonably requested by the Financial Advisor, in consultation with the Monitor, the CPS and Arctic;

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- (n) except in the case of a Credit Bid (unless otherwise specified herein), it is received by the Phase 2 Bid Deadline;
- (o) except in the case of a Credit Bid, the purchase price or funds to be invested will be in an amount sufficient to pay the Lender Claims, as calculated on the closing of the transaction contemplated by the Final Bid, in full and in cash, and shall provide that no such closing shall occur unless such payment in full of the Lender Claims is made concurrently;
- (p) the Monitor determines that in its reasonable business judgment that it is likely that the Qualified Bidder will be able to consummate a Sale Proposal or Investment Proposal on or before the Outside Date in a manner that complies with all requirements of the SISP, including, without limitation, payment in full of the Lender Claims;
- (q) in the case of a Sale Proposal, it includes the following:
  - (i) an acknowledgement and representation that the bidder: (a) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its bid; and (b) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the purchase and sale agreement; and

- (r) in the case of an Investment Proposal, it includes an acknowledgement and representation that the bidder: (a) has relied solely upon its own independent review, investigation and/or inspection of any documents in making its bid; and (b) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the business of the Applicants or the completeness of any information provided in connection therewith, except as expressly stated in the Investment Agreement;
25. The Monitor, in consultation with the Financial Advisor, the CPS and Arctic, may waive compliance with any one or more of the requirements specified herein, except the requirements contained in paragraphs 23(o) and 23(p) of this SISP, which may not be waived, and deem such non-compliant bids to be Qualified Bids.

**Evaluation and Selection of Successful Bid**

26. The Monitor, in consultation with the Financial Advisor, the CPS and Arctic, will review each Qualified Bid as set forth herein.
27. Evaluation criteria with respect to a Sale Proposal may include, but are not limited to items such as: (a) the purchase price and net value (including assumed liabilities and other obligations to be performed by the bidder); (b) the firm, irrevocable commitment for financing the transaction; (c) the claims likely to be created by such bid in relation to other bids; (d) the counterparties to the transaction; (e) the terms of transaction documents; (f) other factors affecting the speed, certainty and value of the transaction (including any regulatory approvals required to close the transaction); (g) planned treatment of stakeholders; (h) the assets included or excluded from the bid; (i) proposed treatment of the employees; (j) any transition services required from Applicants post-closing and any related restructuring costs; and (k) the likelihood and timing of consummating the transaction.
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28. Evaluation criteria with respect to an Investment Proposal may include, but are not limited to items such as: (a) the amount of equity and debt investment and the proposed sources and uses of such capital; (b) the firm, irrevocable commitment for financing the transaction; (c) the debt to equity structure post-closing; (d) the counterparties to the transaction; (e) the terms of the transaction documents; (f) other factors affecting the speed, certainty and value of the transaction (including any regulatory approvals required to close the transaction); (g) planned treatment of stakeholders; and (h) the likelihood and timing of consummating the transaction.
29. If one or more Qualified Bids is received, the Monitor, exercising its reasonable business judgment and following consultation with the Financial Advisor, the CPS and Arctic, will recommend to the Special Committee that the most favourable Qualified Bid be selected and that the Financial Advisor, the Monitor, Arctic and their advisors shall negotiate and settle the terms of a definitive agreement in respect of that Qualified Bid, all of which will be conditional upon Court approval. If the Special Committee does not accept such recommendation, the Monitor will seek advice and directions from the Court.
30. Once a definitive agreement has been negotiated and settled in respect of the Qualified Bid as selected by the Special Committee in accordance with the provisions hereof (the "Selected Qualified Bid"), the Selected Qualified Bid will be the "Successful Bid" hereunder and the person(s) who made the Selected Qualified Bid will be the "Successful Bidder" hereunder.
31. If the Monitor, after consultation with the Financial Advisor, the CPS and Arctic, determines that no Qualified Bid has been received at the end of Phase 2 and the Lenders have not made a Credit Bid, the Financial Advisor shall provide copies of the Final Bids received by the Phase 2 Deadline, if any, to the Lenders. Within 5 Business Days after such receipt by the Lenders of the

Final Bids, the Lenders may, in their sole and absolute discretion, (a) designate one or more Final Bids as Qualified Bids and/or (b) submit a Credit Bid. If any such designated Final Bid becomes a Selected Qualified Bid and becomes subject to a definitive agreement as contemplated by paragraph 30 hereof, the Lenders will not thereafter be entitled to submit a Credit Bid under this SISP unless such Selected Qualified Bid does not proceed, is terminated or fails to be completed in accordance with the terms and conditions of this SISP. If no Qualified Bid is received or designated by the Lenders, and the Lenders decide not to submit a Credit Bid, any of the Lenders, the Monitor or Arctic may apply to the Court for further advice and directions regarding the continuation or termination of the SISP.

32. If the Monitor, after consultation with the Financial Advisor, the CPS and Arctic, determines at any point during Phase 2 that there is no reasonable prospect of obtaining a Credit Bid or of a Qualified LOI resulting in a Qualified Bid, Arctic or the Monitor will advise the Court and seek advice and directions of the Court with respect to continuation or termination of the SISP.

#### **Approval Motion for Successful Bid**

33. The Applicants will apply to the Court (the "Approval Motion") for an order approving the Successful Bid and authorizing Arctic to enter into any and all necessary agreements with respect to the Successful Bid and to undertake such other actions as may be necessary or appropriate to give effect to the Successful Bid.
34. The Approval Motion will be held on a date to be scheduled by the Court upon application by the Applicants. The Approval Motion may be adjourned or rescheduled by the Applicants or the Monitor without further notice by an announcement of the adjourned date at the Approval Motion.
35. All Qualified Bids (other than the Successful Bid) will be deemed rejected on the date of approval of the Successful Bid by the Court.

#### **Other Terms**

##### **No Derogation**

36. Nothing in this SISP, or in any decision the Lenders may make regarding whether or not to submit a Credit Bid, shall affect the Lenders' rights to exercise contractual or legal remedies, or to enter into, and seek court approval for, any transaction with or relating to Arctic or its property, subject to the applicable stay provisions of the Initial Order.

##### **Deposits**

37. All Deposits will be retained by the Monitor and invested in an interest bearing trust account. If there is a Successful Bid, the Deposit (plus accrued interest) paid by the Successful Bidder whose bid is approved at the Approval Motion will be applied to the purchase price to be paid or investment amount to be made by the Successful Bidder upon closing of the approved transaction and will be non-refundable. The Deposits (plus applicable interest) of Qualified Bidders not selected as the Successful Bidder will be returned to such bidders within 5 Business Days of the date upon which the Successful Bid is approved by the Court. If there is no Successful Bid, subject to the following paragraph, all Deposits (plus applicable interest) will be returned to the bidders within 5 Business Days of the date upon which the SISP is terminated in accordance with these procedures.
38. If a Successful Bidder breaches its obligations under the terms of the SISP, its Deposit shall be forfeited as liquidated damages and not as a penalty.

**Approvals**

39. For the avoidance of doubt, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the CCAA or any other statute or as otherwise required at law in order to implement a Successful Bid.

**No Amendment**

40. There will be no amendments to this SISP without the consent of the Monitor, the Financial Advisor, Arctic and the Lenders or, in the absence of consent, the approval of the Court.
41. This SISP does not, and will not be interpreted to, create any contractual or other legal relationship between Arctic and any Qualified Bidder, other than as specifically set forth in a definitive agreement that may be signed with Arctic. At any time during the SISP, the Monitor may, following consultation with the Financial Advisor, the CPS and the Applicants, upon reasonable prior notice to the Lenders, apply to the Court for advice and directions with respect to the discharge of its power and duties hereunder.

**Schedule "A"**

**Address for Notices and Deliveries**

To the Monitor:

Alvarez & Marsal Canada Inc.

Attn: [Richard Morawetz and Adam Zalev]

Direct Dial: 416-847-5151/416-847-5154

Facsimile:

Email: rmorawetz@alvarezandmarsal.com/azalev@alvarezandmarsal.com

To the Financial Advisor:

TD Securities Inc.

66 Wellington Street West

9th Floor

Toronto, ON M5K 1A2

Attn: Art Chipman, Managing Director

Direct Dial: 416.308.3099

Facsimile: 416.308.0182

E-mail: art.chipman@tdsecurities.com

Attn: Atif Zia, Vice President and Director

Direct Dial: 416.307.9921

Facsimile: 416.308.0182

E-mail: atif.zia@tdsecurities.com

To the Applicants:

625 Henry Avenue,

Winnipeg, MB R3A 0V1

Attn: Keith McMahon, President and Chief Executive Officer  
Arctic Glacier Inc.

Direct Dial: 204-772-2473

Facsimile: 204-783-9857

E-mail: kmcmahon@arcticglacier.com

**SCHEDULE "C" - Critical Suppliers**

# Canadian Critical Supplier List

Feb 2012

Vendor Name	Vendor Type
<b>Distributor/Co-Packer</b>	
Black's Ice Co Inc	Distributor/ Co-Packer
Boîte a Glace	Distributor/ Co-Packer
Christian Dugas	Distributor/ Co-Packer
Glacé Laurentide	Distributor/ Co-Packer
Lake Ontario Ice	Distributor/ Co-Packer
Lecoupe Ice	Distributor/ Co-Packer
North Star Ice	Distributor/ Co-Packer
Richard Boutin Inc	Distributor/ Co-Packer
Sylvain Lane Distribution	Distributor/ Co-Packer
Transport ML	Distributor/ Co-Packer
Valere D'Anjou Inc	Distributor/ Co-Packer
<b>Utility Suppliers</b>	
Hydro-Quebec	Utility
PAP BC Hydro	Utility
PAP Chatham-Kent Utility Services	Utility
PAP Cogeco	Utility
PAP Direct Energy	Utility
PAP Enbridge	Utility
PAP Enersource	Utility
PAP Enmax	Utility
PAP Epcor	Utility
PAP Fortis BC	Utility
PAP Horizon Utilities	Utility
PAP Hydro One	Utility
PAP Hydro Quebec	Utility
PAP MB Hydro	Utility
PAP Nexen	Utility
PAP Primus	Utility
PAP TeraGo Networks Inc.	Utility
PAP TransAlta Energy Marketing	Utility
PAP UnionGas	Utility
TransAlta Energy Marketing	Utility
<b>Fuel suppliers</b>	
4 Refuel Canada LP	Fuel
Centex Petroleum	Fuel
Husky Oil Marketing Company	Fuel
Iberic Oil Co Ltd	Fuel
Imperial Oil	Fuel



# Canadian Critical Supplier List

Feb 2012

Vendor Name	Vendor Type
PAP Federated Co-operatives	Fuel
PAP GazMetro	Fuel
PAP Husky Oil Marketing Company	Fuel
PAP Petro Canada	Fuel
PAP Shell Canada	Fuel
Pioneer Energy LP	Fuel
United Farmers of Alberta - Calgary	Fuel
Waddick Fuels	Fuel

## Vehicle Rental and Transport

Altruck Idealease - Lease	Vehicle & Transport
Canada Transport Inc	Vehicle & Transport
CH Robinson Worldwide Inc - Toronto	Vehicle & Transport
Checker Flag Leasing Inc	Vehicle & Transport
Chill Chain Logistic	Vehicle & Transport
CTS Lease & Rental - Regina	Vehicle & Transport
CTS Lease & Rental - Winnipeg	Vehicle & Transport
Excellence Peterbilt Inc	Vehicle & Transport
Great West Truck Lease & Rentals Ltd	Vehicle & Transport
Harold North Trucking Ltd	Vehicle & Transport
Humberview Chevrolet	Vehicle & Transport
Inland Paclease	Vehicle & Transport
JDS Enterprizes Ltd	Vehicle & Transport
Kenworth Ontario PacLease	Vehicle & Transport
Little Rock Farm	Vehicle & Transport
M Kostiuk Express Ltd	Vehicle & Transport
Maxim Rentals & Leasing	Vehicle & Transport
Mid-West Collision Division	Vehicle & Transport
Muirkirk Freight Services	Vehicle & Transport
Paccar Leasing Company Ltd	Vehicle & Transport
PAP Altruck Idealease	Vehicle & Transport
PAP CTS Lease	Vehicle & Transport
PAP Excellence Peterbilt Inc	Vehicle & Transport
PAP Inland Paclease	Vehicle & Transport
PAP Maxim Rentals	Vehicle & Transport
PAP MCAP Leasing Ltd	Vehicle & Transport
PAP Western Toronto Idealease	Vehicle & Transport
Penske Truck Leasing	Vehicle & Transport
R & B Distribution	Vehicle & Transport
Randy Smith	Vehicle & Transport
Ryder Truck Rental Canada Ltd	Vehicle & Transport
S & S Forwarding Ltd	Vehicle & Transport
Tandet NationalLease Ltd	Vehicle & Transport

# Canadian Critical Supplier List

Feb 2012

Vendor Name	Vendor Type
Target Transport Ltd	Vehicle & Transport
Trans-Go Logistique Inc.	Vehicle & Transport
Vezina Assurances Inc	Vehicle & Transport
Western Toronto Idealease	Vehicle & Transport
Western Toronto International Trucks Inc.	Vehicle & Transport

## Inventory and Ice Storage Suppliers (including packaging)

2740-5364 Quebec Inc	Inventory
BlizzArt Sculpture Enr	Inventory
Bois De Foyer IGL Inc	Inventory
Canadian Gold Beverages Inc	Inventory
Canadian Paper & Packaging Co Inc	Inventory
Chep Equipment Pooling Systems	Inventory
Emballages Clef Inc	Inventory
Entrepot Frigorifique International Inc	Inventory
Hood Packaging Corporation	Inventory
Millard Refrigerated Services	Inventory
Millennium Flexible Packaging	Inventory
Mr Iceman Ltd	Inventory
Norampac	Inventory
NorCan Flexible Packaging Inc	Inventory
Praxair Distribution	Inventory
Trenton Cold Storage Inc	Inventory
Versacold Group Services ULC	Inventory
Versacold Logistics Canada Inc	Inventory

## Professional Services (including staffing agencies and service providers)

CSM Driver Services Inc	Professional
CXA Recruiting	Professional
Discover Staffing Solutions Inc	Professional
Endeavour Personnel Ltd EPL	Professional
Entreprise MR 2000 Inc	Professional
J J Keller and Associates Inc	Professional
Pivotal Integrated HR Solutions	Professional
Promax	Professional
Randstad	Professional
Staff Right	Professional
Staffing Guys Inc, The	Professional

## Equipment Providers

6108947 Manitoba Ltd	Equipment
Advanced Refrigeration HVAC Inc	Equipment

Canadian Critical Supplier List  
Feb 2012

Vendor Name	Vendor Type
Alain Refrigeration Enr	Equipment
Arrow Specialites	Equipment
Atlantis Refrigeration Inc	Equipment
Corporate Express - Mississauga ON	Equipment
Descartes Systems Group Inc	Equipment
Entreprise J P Enr	Equipment
Excell Electrical Corporation	Equipment
Fixair Inc	Equipment
High Line Corporation	Equipment
Highjump Software Canada Inc	Equipment
Intercall	Equipment
Intermec Technologies Canada Ltd	Equipment
Johnsen Machine Company Ltd	Equipment
Leer Limited Partnership	Equipment
Master Group LP, The	Equipment
Microage - Winnipeg	Equipment
Microsoft Licensing GP	Equipment
Modern Ice	Equipment
OnX Enterprise Solutions Ltd	Equipment
PAP CIT Financial	Equipment
PAP CitiCorp Vendor Finance Ltd	Equipment
PAP Milne Office Systems	Equipment
PAP National Leasing	Equipment
PAP Standard Leasing	Equipment
Paperless Business Systems	Equipment
Polar Industries Ltd	Equipment
Prophet Business Group Ltd	Equipment
Quest Software Canada	Equipment
Ricoh Canada Inc	Equipment
RV Service Inc - St-Eustache	Equipment
Seccuris Inc	Equipment
Thermal Manufacturing Inc	Equipment
Tim Brown Refrigeration Services Ltd	Equipment
Turbo Images	Equipment
Xiotech Corporation	Equipment

# **APPENDIX “C”**

**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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**THIRD REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.  
MAY 14, 2012**

Date of Hearing: Tuesday, May 15, 2012 at 2:00 p.m.  
Before the Honourable Madam Justice Spivak

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File No.: 85135-1

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- Appendix A – List of the Applicants**
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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. ("**A&M**") 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"** (the "**Additional Applicants**"), (collectively, 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 In connection with the Applicants' application for protection under the CCAA, A&M provided this Honourable Court with a pre-filing report (the "**Pre-Filing Report**") dated February 21, 2012 in its capacity as the proposed monitor.

1.3 The Initial Order, among other things:

- a) Granted a stay of proceedings (the "**Stay**") until March 23, 2012 as against the Applicants as well as against Glacier Valley Ice Company, L.P. ("**Arctic LP**"), a U.S. based limited partnership whose general partner is the Additional Applicant Mountain Water Ice Company. Arctic LP and the Applicants are collectively referred to herein as "**Arctic Glacier**", or the "**Company**";
- b) Authorized and directed the Company to immediately commence a Sale and Investor Solicitation Process (the "**SISP**") for the purpose of offering



the opportunity for potential investors to purchase or invest in the business and operations of Arctic Glacier as a going concern, or to sponsor a plan of compromise or arrangement. A summary of the SISP was included in the Pre-Filing Report;

- c) Approved the engagement of the Financial Advisor and the appointment of the Chief Process Supervisor (“CPS”);
- d) Entitled the Company (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 the Company prior to the date of the Initial Order, with the consent of the Monitor, and goods or services supplied to the Company following the date of the Initial Order;
- e) Authorized and directed the Company to enter into and borrow under the DIP Facility provided by the DIP Lenders, provided that borrowings under the DIP Facility shall not exceed a combined total of CDN\$26 million and US\$24 million unless permitted by further order of this Honourable Court; and
- f) Directed the Monitor, as a foreign representative of the Applicants, to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the United States Bankruptcy Code, 11 U.S.C. Sec. 101-1330, as amended (the “**Chapter 15 Proceedings**”).

- 1.4 The Monitor filed its First Report to Court dated March 12, 2012 (the "**First Report**") in support of the Applicants' motion (the "**First Stay Extension Motion**") for an Order:
- a) Extending the Stay until April 5, 2012; and
  - b) Approving the Pre-Filing Report and the First Report and the Monitor's activities described therein.
- 1.5 On March 15, 2012, this Honourable Court issued the Order sought in the First Stay Extension Motion.
- 1.6 The Monitor filed its Second Report to Court dated March 30, 2012 (the "**Second Report**") in support of the Applicants' motion (the "**Second Stay Extension Motion**") for an Order:
- a) Extending the Stay until June 15, 2012; and
  - b) Approving the Second Report and the Monitor's activities described therein.
- 1.7 On April 3, 2012, this Honourable Court issued the Order sought in the Second Stay Extension Motion, however the stay was extended until June 27, 2012.
- 1.8 The purpose of this report (the "**Third Report**") is to provide information to this Honourable Court regarding the following:
- a) the status of the SISP;

- b) the settlement of the motion brought by the Direct Purchaser Plaintiffs (as defined below); and
- c) the Monitor's recommendation in respect of the Consent Order (as defined below) implementing the settlement of the Direct Purchaser Motion (as defined below).

1.9 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 Third Report, A&M has necessarily relied upon unaudited financial and other information supplied, and representations made, by certain senior management of Arctic Glacier ("**Senior Management**"). 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 Third Report, or otherwise used to prepare this Third Report.

2.2 Certain of the information referred to in this Third 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 Third 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 Third Report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Applicants.
- 2.4 Capitalized terms not otherwise defined in this Third Report are as defined in the Initial Order, the Pre-Filing Report, the First Report and the Second Report.
- 2.5 Unless otherwise stated, all monetary amounts contained in this Third Report are expressed in United States dollars, which is the Company's common reporting currency.

### **3.0 UPDATE REGARDING THE SALE AND INVESTOR SOLICITATION PROCESS**

- 3.1 The Monitor provided an overview of the SISP to this Honourable Court in its Pre-Filing Report. In the First Report and the Second Report, the Monitor provided details of its activities in connection with the SISP.
- 3.2 As set out in the Second Report, pursuant to the SISP, the deadline for the submission of non-binding letters of intent ("LOIs") to the Financial Advisor was 5:00 pm (CST) on March 28, 2012 (the "**Phase I Bid Deadline**"). A number of LOIs were submitted prior to the Phase I Bid Deadline. The LOIs were subsequently evaluated in accordance with the SISP, and the Monitor, in consultation with the Financial Advisor, the CPS and Arctic Glacier, determined that multiple LOIs were qualified for inclusion in Phase II. As a result, the Monitor and the Financial Advisor recommended that the special committee of the board of trustees of AGIF (the "**Special Committee**") authorize Phase II of the SISP.

- 3.3 On April 12, 2012, AGIF issued a press release announcing that the Special Committee had authorized the commencement of Phase II of the SISP. A copy of the press release is attached as **Appendix “B”** to this Third Report.
- 3.4 After the commencement of Phase II, pursuant to paragraph 22 of the SISP, the Monitor, in consultation with the Financial Advisor, the CPS and the Company, determined that the Phase II Bid Deadline (as defined in the SISP) should be extended by 15 days as provided for in the SISP, such that Phase II of the SISP will last for 60 days. Thus, on April 24, 2012, the Financial Advisor informed the participants in Phase II of the SISP (the **“Phase II Participants”**) that the Phase II Bid Deadline was extended to 6:00 p.m. EST (5:00 p.m. CST) on June 4, 2012.
- 3.5 Since the filing of the Second Report, the Monitor has continued to work closely with the Company, the Financial Advisor and the CPS in implementing the SISP. The Monitor’s primary activities have included the following:
- Reviewing the contents of the second round data room which is being used to provide due diligence information to the Phase II Participants;
  - Attending all of the management presentations made to the Phase II Participants and participating in numerous lengthy follow up conference calls with such participants;
  - Engaging in discussions with the Financial Advisor, the CPS and the Company concerning the SISP;
  - Assisting in communications to the Phase II Participants; and

- Reviewing and providing comments on the standard form asset purchase agreement and process letter to be distributed to the Phase II Participants.

3.6 The Monitor continues to be satisfied that the SISP is being managed in accordance with its terms and that parties have been provided a reasonable opportunity to participate in the sale process. The Monitor will continue to supervise the SISP in accordance with the Initial Order and will provide this Honourable Court with further information on the progress of the SISP.

#### **4.0 SETTLEMENT OF THE DIRECT PURCHASER MOTION**

4.1 As described in the First Report, after the granting of the Initial Order, the Monitor was contacted by counsel for the US Direct Purchaser Antitrust Settlement Class (the “**Direct Purchaser Plaintiffs**”) concerning their clients’ participation in the CCAA Proceedings. Paragraph 105(a) of the Initial McMahon Affidavit describes the settlement reached in the United States litigation with the Direct Purchaser Plaintiffs. In particular, the Initial McMahon Affidavit states:

- a) On March 30, 2011, without admitting liability, the Arctic Glacier defendants (AGIF, AGI and AGII) reached an agreement to settle the direct purchaser class actions by payment of \$12.5 million;
- b) The first installment in the amount of \$2.5 million was paid on August 4, 2011, with the balance of \$10 million to be paid after final court approval of the settlement; and
- c) The settlement received court approval on December 13, 2011 and the final payment of \$10 million is due on April 2, 2012.

- 4.2 The final settlement payment of \$10 million was not made when due on April 2, 2012.
- 4.3 On April 2, 2012, in advance of the hearing of the Second Stay Extension Motion, the Direct Purchaser Plaintiffs filed a Notice of Cross-Motion (the “**Direct Purchaser Motion**”) and supporting materials seeking certain relief in the CCAA Proceedings, including, *inter alia*, an order:
- a) recognizing an ad hoc committee of unsecured creditors of the Applicants, and requiring Arctic Glacier to pay the reasonable fees and disbursements of advisors for the committee or in the alternative advisors to the Direct Purchaser Plaintiffs;
  - b) granting a charge on the property of the Applicants to secure the payment of such fees, up to a maximum amount of CDN\$250,000, ranking *pari passu* in priority to the Administration Charge and the Financial Advisor Charge;
  - c) relating to the payment of certain pre-filing payments made by the Applicants pursuant to the Initial Order;
  - d) granting a representative of the committee or alternatively the Direct Purchaser Plaintiffs a *de facto* seat on the Special Committee for the purposes of reviewing and selecting Qualified Bids pursuant to the SISF;
  - e) varying the Initial Order to prevent certain debt service payments from being made to the Lenders; and

- f) requiring the Applicants and the Monitor to provide certain confidential information to the Direct Purchaser Plaintiffs.

4.4 The Company and the Direct Purchaser Plaintiffs, with the assistance of the Monitor, subsequently entered into discussions in an attempt to resolve the issues set out in the Direct Purchaser Motion. In addition, the Company and the Monitor had discussions with the Lenders with respect to a potential resolution of the Direct Purchaser Motion as certain matters raised in the motion had a direct impact on the Lenders.

4.5 On May 3, 2012, the Company and the Direct Purchaser Plaintiffs, with the consent of the Lenders, agreed to a settlement in principle of the Direct Purchaser Motion. On that same date, counsel for the Company informed this Honourable Court that the motion had been settled in principle and that the parties intended to seek a consent order to implement the settlement.

4.6 On May 14, 2012, the Company and the Direct Purchaser Plaintiffs (through their counsel) executed a settlement agreement (the "**Settlement Agreement**") in order to resolve the Direct Purchaser Motion. The Lenders consented to the Consent Order (as defined below). A copy of the Settlement Agreement is attached as **Appendix "C"** to this Third Report.

4.7 The principal terms of the Settlement Agreement include the following:

- a) Arctic Glacier and the advisors to the Direct Purchaser Plaintiffs (the "**Advisors**") shall enter into a confidentiality agreement with respect to the disclosure of confidential information to the Advisors;



- b) Arctic Glacier will support and propose a consent order (the “**Consent Order**”) that will vary the Initial Order to permit Arctic Glacier to disclose the financial terms of the Financial Advisor Engagement Letter and a copy of the DIP Fee Letter to the Advisors, on a confidential basis, subject to the terms of the confidentiality agreement;
- c) Arctic Glacier agrees to pay the documented professional fees and disbursements (the “**Permitted Advisor Fees**”) of the Advisors incurred solely in respect of certain permitted purposes to the capped limit of \$100,000 in the aggregate. Arctic Glacier will not pay any fees incurred by the Advisors in respect of non-consensual litigation or challenges to the interests of Arctic Glacier, the Monitor or the Lenders;
- d) The Consent Order will grant a charge in favour of the Advisors in the amount of \$100,000 on the Property, as security for the payment of the Permitted Advisor Fees, with such charge ranking *pari passu* with the Administration Charge and the Financial Advisor Charge;
- e) Subsequent to the Phase II Bid Deadline, the Advisors will be provided, through meetings with the Company’s counsel and the Monitor and its counsel, with certain limited information concerning the SISP, and be granted non-binding consultative rights with respect to Qualified Bids that have been received and that are intended to be negotiated and clarified in accordance with the SISP;

- f) The Consent Order will amend paragraph 43(b) of the Initial Order to provide that, subsequent to the Phase II Bid Deadline, certain information concerning the bids received in Phase II of the SISP may be provided to the Lenders if they have not submitted a Credit Bid;
- g) The Direct Purchaser Motion will be dismissed on consent and without costs; and
- h) The Direct Purchaser Plaintiffs agree not to take any actions seeking to challenge the terms of the Initial Order or any other order made as of the date of the Settlement Agreement in the CCAA Proceedings or the Chapter 15 Proceedings. However, the Direct Purchaser Plaintiffs retain the ability to challenge any payments of default interest to the Lenders.

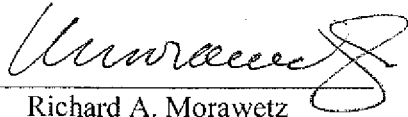
## **5.0 THE MONITOR'S RECOMMENDATION**

5.1 The Settlement Agreement was achieved after several weeks of arms length negotiations between the Company and the Direct Purchaser Plaintiffs and through discussions with the Lenders. It resolves all of the issues with respect to the Direct Purchaser Motion and prevents potentially costly, time consuming and distracting litigation during a period that the Company and its advisors are focused on a successful completion to Phase II of the SISP. The Monitor has participated in the negotiations that led to the Settlement Agreement and is of the view that the agreement is fair and in the best interests of the Applicants and their stakeholders. Accordingly, the Monitor recommends that this Honourable Court grant the Consent Order implementing the Settlement Agreement requested by the Applicants.

\*\*\*\*\*

All of which is respectfully submitted to this Honourable Court this 14<sup>th</sup> day of May, 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

## 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.

## **APPENDIX "B"**

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# ARCTIC GLACIER INCOME FUND

## **Arctic Glacier Income Fund Provides Update On Sale And Investor Solicitation Process**

### *Strong Interest Prompts Special Committee To Authorize Commencement of Phase II*

**WINNIPEG – April 12, 2012 – Arctic Glacier Income Fund (CNSX: AG)** (“Arctic Glacier” or the “Fund”) announced today that a special committee of its board of trustees (the “Special Committee”) has authorized commencement of Phase II of the Sale and Investor Solicitation Process (“SISP”).

During Phase I of the SISP, Arctic Glacier’s financial advisor, TD Securities Inc. (“TD Securities”) solicited and received non-binding letters of intent (“LOIs”) from several interested parties to acquire or to invest in Arctic Glacier. Alvarez & Marsal Canada Inc. (the “Monitor”), in consultation with TD Securities, the Chief Process Supervisor and Arctic Glacier, determined that multiple LOIs were qualified for inclusion in Phase II. As a result, TD Securities and the Monitor recommended that the Special Committee authorize the commencement of Phase II of the SISP.

Arctic Glacier, with the assistance of TD Securities, will now make additional information available to parties invited to Phase II and will then seek submission of binding proposals regarding a transaction with the Fund. Phase II is expected to require a period of several weeks to complete and there can be no assurance that any transaction may occur.

“We are very pleased with the level of interest that surfaced in Phase I,” said Keith McMahon, President and CEO of Arctic Glacier. “We received indications of interest from a large group of prospective acquirers and investors, and are optimistic about Phase II of the process. We will continue to work with these parties and expect to conclude a transaction for the benefit of all Arctic Glacier stakeholders.”

Commenting on today’s news release from Reddy Ice Holdings, Inc. (“Reddy Ice”) in connection with their U.S. Chapter 11 bankruptcy proceedings and interest in a combination with Arctic Glacier, Mr. McMahon said, “We have received a non-binding letter of intent from Reddy Ice. Reddy Ice is one of many parties that have expressed interest in our process and from whom a non-binding letter of intent was received. We do not intend to disclose the identities of any of our Phase II participants.”

### **About Arctic Glacier**

*Arctic Glacier Income Fund, through its operating company, Arctic Glacier Inc., is a leading producer, marketer and distributor of high-quality packaged ice in North America, primarily under the brand name of Arctic Glacier® Premium Ice. Arctic Glacier operates 39 production plants and 47 distribution facilities across Canada and the northeast, central and western United States servicing more than 75,000 retail locations.*

*Arctic Glacier Income Fund trust units are listed on the Canadian National Stock Exchange under the trading symbol AG.UN. There are 350.3 million trust units outstanding.*

#### **Forward-Looking Information**

Certain matters set forth in this news release, including statements with respect to the SISF are forward looking. These forward-looking statements reflect management's current views and are based on certain assumptions including assumptions as to future operating conditions and courses of action, the Phase II process participants, the LOIs, sale or recapitalization alternatives, economic conditions and other factors management believes are appropriate. Such forward looking statements are subject to risks and uncertainties that may cause actual results to differ materially from those contained in these statements, including the risk that sale or recapitalization alternatives may not be available to Arctic Glacier or may not be available on terms favourable to Arctic Glacier and its security holders or that any such sale would yield proceeds sufficient for any distribution to Arctic Glacier's unitholders, as well as those risks and uncertainties identified under the heading "Risks Management" in Arctic Glacier's management's discussion and analysis for the year ended December 31, 2011, available at [www.sedar.com](http://www.sedar.com). These forward-looking statements are made as at the date of this news release, and the Fund assumes no obligation to update or revise them, either publicly or otherwise, to reflect new events, information or circumstances.

#### **Contact Information**

Keith McMahon, President & CEO  
Doug Bailey, Chief Financial Officer  
Toll free investor relations phone: 1-888-573-9237

[www.arctieglacier.com](http://www.arctieglacier.com)

## **APPENDIX “C”**



**Settlement Agreement**

**(Dated as of May 14, 2012)**

WHEREAS on February 22, 2012, (the "**Filing Date**"), Arctic Glacier Income Fund, Arctic Glacier Inc. and Arctic Glacier International Inc. (the "**Arctic Glacier Defendants**") and certain of their affiliates (collectively, "**Arctic Glacier**") applied for and obtained an Initial Order (the "**Initial Order**") of the Manitoba Court of Queen's Bench (Winnipeg Centre) (the "**Court**") under the *Companies' Creditors Arrangement Act* (the "**CCAA Proceedings**"). The Initial Order appointed Alvarez & Marsal Canada Inc. as Monitor of Arctic Glacier in the CCAA Proceedings.

AND WHEREAS, also on February 22, 2012, the Monitor, in its capacity as foreign representative of Arctic Glacier, filed petitions for relief for each Arctic Glacier entity under Chapter 15 of the *United States Bankruptcy Code* with the United States Bankruptcy Court for the District of Delaware (the "**Chapter 15 Proceedings**").

AND WHEREAS the Arctic Glacier Defendants are defendants in a class action brought by a class of direct purchaser plaintiffs (the "**Direct Purchaser Plaintiffs**") in Case No. 08-MDL-01952 in the United States District Court, Eastern District of Michigan, South Division (the "**Direct Purchaser Class Action**").

AND WHEREAS on March 30, 2011, the Arctic Glacier Defendants reached an agreement to settle the Direct Purchaser Class Action by payment of US\$12.5 million (the "**Settlement Payment**").

AND WHEREAS the first instalment of the Settlement Payment in the amount of US\$2.5 million was paid by the Arctic Glacier Defendants on August 4, 2011. The remainder of the Settlement Payment in the amount of US\$10 million was due on April 2, 2012, but remains unpaid.

AND WHEREAS on April 2, 2012, the Direct Purchaser Plaintiffs filed a Notice of Cross-Motion and supporting materials seeking certain relief in the CCAA Proceedings (the "**Direct Purchaser Motion**").

AND WHEREAS Arctic Glacier, the Direct Purchaser Plaintiffs through their U.S. Attorneys Kohn, Swift & Graf, P.C., their Canadian counsel Dickinson Wright LLP and their financial advisor MNP LLP (collectively, the “**Advisors**”) (collectively, the “**Parties**”), with the assistance of the Monitor, have reached a consensual settlement of the matters raised in the Direct Purchaser Motion (the “**Settlement**”).

AND WHEREAS Arctic Glacier requires the consent of CPPIB Credit Investments Inc., West Face Long Term Opportunities Limited Partnership, West Face Long Term Opportunities (USA) Limited Partnership, West Face Long Term Opportunities Master Fund L.P., and West Face Long Term Opportunities Global Master L.P. (collectively, the “**Secured Lenders**”) to the Consent Order and the Secured Lenders have agreed to provide such consent, subject to the terms and conditions set forth herein.

NOW THEREFORE, in exchange for the covenants and agreements set out herein, the Parties agree to settle all matters and issues raised in the Direct Purchaser Motion on the following basis:

**Confidential Information**

1. Arctic Glacier and the Advisors shall enter into a confidentiality agreement in the form attached hereto as Schedule “A” (the “**Confidentiality Agreement**”) that sets out the terms under which Arctic Glacier will disclose confidential information to the Advisors and the terms under which the Advisors may receive and use such confidential information.

2. Arctic Glacier will support and propose a consent order in the form attached as Schedule “B” to the Court (the “**Consent Order**”). In respect of the provision of confidential information to the Advisors, the Consent Order, among other things, will provide for:

- (a) Approval of the form of Confidentiality Agreement; and
- (b) The variation of paragraph 63 of the Initial Order to permit Arctic Glacier to disclose a summary of the financial terms of the Financial Advisor Engagement

Letter and a copy of the DIP Fee Letter (both as defined in the Initial Order) to the Advisors, subject to the terms set out in the Confidentiality Agreement.

**Payment of Certain Professional Costs of the Direct Purchaser Plaintiffs**

3. Arctic Glacier agrees and the Consent Order will direct Arctic Glacier to pay the documented professional expenses actually incurred by the Direct Purchaser Plaintiffs, for the fees and disbursements of the Advisors, solely for the purposes of monitoring the CCAA Proceedings and evaluating financial information with respect to Arctic Glacier and information concerning the sale or restructuring of Arctic Glacier's business, to the limit of \$100,000 in the aggregate (the "**Permitted Advisor Fees**").
4. The Permitted Advisor Fees shall not include any fees or disbursements incurred for non-consensual litigation services or litigation support services, including but not limited to any activities relating to any type of opposition or challenge (direct or indirect) to the activities, motions or interests of Arctic Glacier, the Monitor or the Secured Lenders, whether as part of or outside the CCAA Proceedings or in any other proceeding (the "**Non-Permitted Purposes**").
5. The Direct Purchaser Plaintiffs agree not to seek an increase in the quantum of the Permitted Advisor Fees, irrespective of the future direction or duration of the CCAA Proceedings or any other insolvency proceeding with respect to Arctic Glacier, such that for all purposes the Permitted Advisor Fees, including any and all related expenses, are capped at the maximum amount of \$100,000 in the aggregate.
6. The Advisors shall provide invoices on a periodic basis setting out in sufficient detail the nature of their work and certifying that none of the fees and disbursements sought to be reimbursed relate to any Non-Permitted Purposes. Arctic Glacier shall pay such invoices within

30 days of receipt if Arctic Glacier and the Monitor, acting reasonably, are satisfied with the form, substance and certification contained in such invoices.

7. The Consent Order will grant a charge in favour of the Advisors in the amount of \$100,000 on the Property (as defined in the Initial Order), as security for payment of the Permitted Advisor Fees, with such charge ranking *pari passu* with the Administration Charge and the Financial Advisor Charge.

**Sale and Investor Solicitation Process ("SISP")**

8. Subsequent to the Phase II Bid Deadline (as defined in the SISP), Arctic Glacier and the Monitor will provide the Advisors, subject to the terms of the Confidentiality Agreement, at in-person meetings both subsequent to the receipt of Qualified Bids (as defined in the SISP) and prior to the Monitor's recommendation concerning Qualified Bids to the Special Committee in accordance with the SISP (the "**Meetings**"), a summary or other information in respect of Qualified Bids (as defined in the SISP) that have been received and that are intended to be negotiated and clarified in accordance with the SISP, but any information provided at such Meetings shall be without prejudice to the Parties' claims, interests, or rights in any respect. The scope of the information included in the summary or other information will be in the sole discretion of Arctic Glacier and the Monitor, acting reasonably, and such materials provided must be returned to Arctic Glacier and the Monitor by the Advisors at the conclusion of the Meetings.

9. The Advisors present at the Meetings will be provided with an opportunity to comment on the summary or other information and provide non-binding input to Arctic Glacier and the Monitor concerning the SISP. The Advisors shall have no authority or ability whatsoever to direct or instruct the actions of Arctic Glacier or the Monitor with respect to the

SISP. For the avoidance of doubt, any information, whether written or oral, provided to the Advisors at the Meetings may only be used in any hearing before the Court in the CCAA Proceeding or in any other court proceeding if such hearing is conducted in a manner which will ensure such information is kept confidential (a “**Confidential Hearing**”). For greater certainty, in the event that the Advisors shall desire a Confidential Hearing, Arctic Glacier and the Monitor shall work cooperatively with the Advisors to cause and shall not oppose the hearing of a Confidential Hearing. The Monitor and/or Arctic Glacier may convene additional Meetings with the Advisors.

10. The Consent Order will amend paragraph 43(b) of the Initial Order to provide that, subsequent to the Phase II Bid Deadline, information concerning the SISP may be provided to the Secured Lenders if they have not submitted a Credit Bid (as defined in the SISP). Subject to any requirements of the Commitment Letter and the Definitive Documents (as such terms are defined in the Initial Order), the information provided pursuant to this paragraph to the Secured Lenders and their access to Arctic Glacier and the Monitor in respect of the SISP provided pursuant to this paragraph will be substantially similar to that provided to the Advisors.

#### **Dismissal of Motion**

11. The Consent Order shall dismiss the Direct Purchaser Motion. Further, the Direct Purchaser Plaintiffs through their counsel agree not to bring any further motions in the CCAA Proceedings or the Chapter 15 Proceedings dealing with the specific relief claimed in the Direct Purchaser Motion.

**Commitments of Direct Purchaser Plaintiffs**

12. Arctic Glacier, the Direct Purchaser Plaintiffs, through their counsel, the Advisors, through their counsel, consent to the Consent Order.

13. The Direct Purchaser Plaintiffs through their counsel agree not to take any steps or actions, including filing any court motions or court materials, seeking to challenge the terms of the Initial Order or any other order made as of the date of this Agreement in the CCAA Proceedings or the Chapter 15 Proceedings (collectively, the "Proceedings"), including without limitation the provisions of any order relating to Arctic Glacier's debtor-in-possession financing facility, the SISP and any payments made pursuant to the Initial Order during the CCAA Proceedings. Notwithstanding anything contained in this Agreement, the Direct Purchaser Plaintiffs shall remain at liberty in the Proceedings to challenge any interest payments made at the Default Rate on the First Lien Debt or on the DIP prior to or after the date hereof.

14. The Secured Lenders shall have the benefit of the provisions of this Settlement as third party beneficiaries, provided, however, that nothing herein shall be deemed to be an admission of liability by the Secured Lenders or a waiver of any defences that the Secured Lenders may have.

**Entire Agreement**

15. This Agreement constitutes the entire agreement among the Parties in respect of the settlement of the Direct Purchaser Motion and supersedes all prior agreements, representations, warranties, covenants or understandings, whether written or oral, relating to the subject matter of this Agreement. This Agreement may be amended or modified only by written instrument executed by all of the Parties. This Agreement shall be construed, interpreted and

enforced in accordance with the laws of the Province of Manitoba and each of the Parties attorns to the non-exclusive jurisdiction of the courts of the Province of Manitoba. In case any provision of this Agreement shall be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

**Miscellaneous**

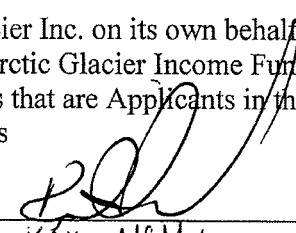
16. Time is of the essence in this Agreement.
17. No waiver of any provision of this Agreement constitutes a waiver of any other provision.
18. This Agreement is binding on and enures to the benefit of the Parties, and the Secured Lenders as third party beneficiaries, and each of their respective successors and permitted assigns.
19. Neither this Agreement nor any of the rights or obligations under this Agreement is assignable or transferable by a Party without the prior written consent of the other Parties.
20. This Agreement may be executed in any number of counterparts (including by facsimile) and all counterparts taken together constitute one and the same instrument.
21. The Parties acknowledge that Arctic Glacier Inc. is signing on behalf of Arctic Glacier Income Fund, it is entering this Agreement solely on behalf of the company and the obligations of the company hereunder shall not be personally binding upon any trustee of Arctic Glacier Income Fund or any registered or beneficial holder of units or any annuitant under a plan of which the holder of units acts as a trustee or carrier, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, any of the foregoing or the private property of any

of the foregoing in respect of the indebtedness, obligation or liability of the company arising hereunder or arising in connection with or from the matters to which this Agreement relates.

**IN WITNESS WHEREOF** this Agreement has been executed.

Arctic Glacier Inc. on its own behalf and on behalf of Arctic Glacier Income Fund and its subsidiaries that are Applicants in the CCAA Proceedings

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

  
Name: Keith McMahon  
Title: President and CEO

Kohn, Swift & Graf, P.C.

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

Joseph Kohn  
Title:

Dickinson Wright LLP

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

Name:  
Title:

MNP LLP

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

Name:  
Title:



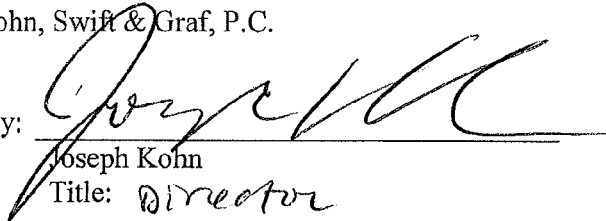
of the foregoing in respect of the indebtedness, obligation or liability of the company arising hereunder or arising in connection with or from the matters to which this Agreement relates.

**IN WITNESS WHEREOF** this Agreement has been executed.

Arctic Glacier Inc. on its own behalf and on behalf of Arctic Glacier Income Fund and its subsidiaries that are Applicants in the CCAA Proceedings

By: \_\_\_\_\_  
Name:  
Title:

Kohn, Swift & Graf, P.C.

By:   
\_\_\_\_\_  
Joseph Kohn  
Title: *Director*

Dickinson Wright LLP

By: \_\_\_\_\_  
Name:  
Title:

MNP LLP

By: \_\_\_\_\_  
Name:  
Title:

of the foregoing in respect of the indebtedness, obligation or liability of the company arising hereunder or arising in connection with or from the matters to which this Agreement relates.

**IN WITNESS WHEREOF** this Agreement has been executed.

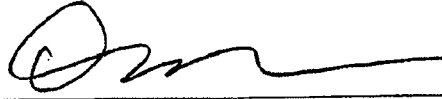
Arctic Glacier Inc. on its own behalf and on behalf of Arctic Glacier Income Fund and its subsidiaries that are Applicants in the CCAA Proceedings

By: \_\_\_\_\_  
Name:  
Title:

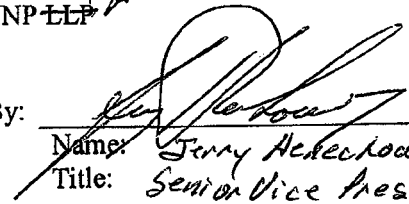
Kohn, Swift & Graf, P.C.

By: \_\_\_\_\_  
Joseph Kohn  
Title:

Dickinson Wright LLP

By:  \_\_\_\_\_  
Name: DAVID PREGER  
Title: PARTNER

~~LLP~~  
MNP-LLP

By:  \_\_\_\_\_  
Name: Gerry Hebeckowicz  
Title: Senior Vice President

**CONSENT OF SECURED PARTIES TO CONSENT ORDER**

The undersigned hereby confirms that the Required Lenders have consented to the terms of the Consent Order.

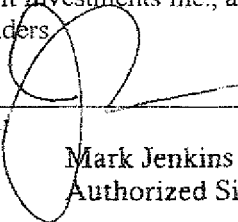
DATED this 14<sup>th</sup> day of May, 2012.

CPPIB Credit Investments Inc., as agent for the Secured Lenders

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

Name:

Title:

  
Mark Jenkins  
Authorized Signatory

**Schedule "A"**

## CONFIDENTIALITY AGREEMENT

Confidentiality agreement dated May 14, 2012 between Arctic Glacier Income Fund on its own behalf and on behalf of its subsidiaries that are Applicants in proceedings (the "**CCAA Proceedings**") commenced by an Initial Order (the "**Initial Order**") made by the Manitoba Court of Queen's Bench on February 22, 2012 under the *Companies' Creditors Arrangement Act* (collectively, the "**Company**") and (1) Kohn, Swift & Graf, P.C., the attorneys for the representative plaintiffs in a certain class action, case No. 08-MDL-01952 in the United States District Court, Eastern District of Michigan, South Division which was settled by a settlement agreement dated March 30, 2011 and an amendment to settlement agreement dated October 26, 2011 (the "**Class Action**"), (2) MNP Ltd., the financial advisor to Kohn, Swift & Graf, P.C. and (3) Dickinson Wright LLP counsel to Kohn, Swift & Graf, P.C. (together, the "**Counterparties**") (the Company and the Counterparties are collectively the "**Parties**" or individually a "**Party**").

Solely for purposes of evaluating steps taken by the Company in the CCAA Proceedings, including the Company's efforts to implement a transaction as contemplated by the sales and investment solicitation process ("**SISP**") approved in the Initial Order (the "**Permitted Purpose**"), the Counterparties have asked the Company to disclose confidential information relating to the CCAA Proceedings and its business and affairs. This Agreement sets out the terms under which the Company is willing to disclose Confidential Information (as defined below) and the terms under which the Counterparties may receive and use such Confidential Information.

### Section 1 Non-Disclosure of Confidential Information.

1. The Counterparties shall (i) keep confidential all information disclosed by the Company to the Counterparties relating to the CCAA Proceedings and/or the Company's business, operations, assets, liabilities, plans, prospects and affairs, including without limitation the information and documents previously subject to a sealing order in accordance with the Initial Order, regardless of whether such information is provided in oral, visual, electronic, written or other form and whether or not it is identified as "confidential" and including all notes, analyses, compilations, forecasts, data, studies, interpretations, or other documents prepared by, on behalf of or for the benefit of, the Counterparties that contain, reflect, summarize, analyze, discuss or review any of the foregoing (the "**Confidential Information**"), (ii) use the Confidential Information solely for the Permitted Purpose and not directly or indirectly for any other purpose, and (iii) not disclose such Confidential Information to any person, including without limitation the representative plaintiffs in the Class Action, except as expressly permitted by this Agreement. Confidential Information does not include any information that:
  - (a) is or becomes generally available to the public (other than as a result of disclosure directly or indirectly by the Counterparties);
  - (b) is or becomes available to the Counterparties on a non-confidential basis from a source other than the Company provided such source does not owe a duty of confidentiality to the Company or to any other person; or
  - (c) is or was independently acquired or developed by the Counterparties without use of any information disclosed by the Company.
2. The disclosure restrictions contained in this Agreement do not apply to any information that is required to be disclosed by law. However, prior to making such disclosure, the Counterparties must unless prohibited by law:

- (a) immediately advise the Company of the requirement;
  - (b) cooperate with the Company in limiting the extent of the disclosure;
  - (c) provide the Company with a reasonable opportunity to obtain a protective order or other remedy in order to preserve the confidentiality of the information required to be disclosed; and
  - (d) disclose only that portion of the Confidential Information which the Counterparties are advised by legal counsel is required to be disclosed.
3. At the Company's request, at any time, the Counterparties shall promptly redeliver to the Company all Confidential Information delivered to the Counterparties and will not retain, in any form, any copies of any such Confidential Information in whole or in part, and the Counterparties shall ensure that all documents, memoranda and notes, in any form, prepared by the Counterparties based on the Confidential Information shall be promptly destroyed, and will certify to the Company in writing that such redelivery and destruction have taken place. Notwithstanding the return or destruction of the Confidential Information, the Counterparties shall continue to be bound by their confidentiality and other obligations hereunder.
4. The Counterparties shall take all steps reasonably necessary to ensure that their respective representatives and employees who have access to the Confidential Information for the Permitted Purpose are aware of and comply with the provisions of this Confidentiality Agreement.

## **Section 2 No Representation or Warranty.**

Each of the Counterparties acknowledges and agrees that the Company and the Monitor make no representation or warranty, expressed or implied, in relation to any of the Confidential Information, its adequacy, accuracy, sufficiency, completeness, or suitability for any particular purpose, and that neither the Company nor its advisors or representatives or the Monitor will have any liability to any of the Counterparties or to any other person for any losses, liabilities, damages, claims, demands, or expenses resulting from, connected with or arising out of resulting from any inadequacy, inaccuracy, insufficiency, incompleteness or unsuitability of the Confidential Information or the use of or reliance on the Confidential Information. Nothing in this Agreement or in the disclosure of any Confidential Information confers any interest in the Confidential Information on the Counterparties. It is specifically agreed that the disclosure of confidential information to the Counterparties does not confer any licence under any patent, trademark, copyright, or any other intellectual property right, by implication or otherwise.

## **Section 3 Remedies.**

In the event of a breach of any of the Counterparties' obligations under this Agreement, the Counterparties must, immediately following discovery of the breach, give notice to the Company of the nature of the breach and take all commercially reasonable and necessary steps to limit the extent of the breach. The Counterparties agree that any breach of this Agreement will give rise to irreparable injury to the Company inadequately compensable in damages. The Company may, in addition to any other remedy, enforce the performance of this Agreement by way of injunction or specific performance upon application to a court of competent jurisdiction without proof of actual damages (and without the requirement of posting a bond or other security) and without the need to establish irreparable harm and each of the Counterparties agrees not to

plead sufficiency of damages as a defence in any such proceeding and further agrees (and will agree in any proceeding) that the fact of disclosure causes irreparable harm to the Company. The rights and remedies provided in this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or equity. Further, upon discovery of a breach of any of the Counterparties' obligations under this Agreement which is confirmed by the Monitor, if any fees are payable by the Company to the Counterparties, such fees will not be paid pending a resolution of all issues surrounding such breach.

#### **Section 4 Entire Agreement.**

This Agreement constitutes the entire agreement among the Parties in respect of Confidential Information and supersedes all prior agreements, representations, warranties covenants or understandings, whether written or oral, relating to the subject matter of this Agreement. This Agreement may be amended or modified only by written instrument executed by all of the Parties. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the Province of Manitoba and each of the Counterparties attorns to the non-exclusive jurisdiction of the Province of Manitoba. In case any provision of this Agreement shall be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

#### **Section 5 Other Covenants and Agreements.**

In respect of Confidential Information relating to the business and affairs of the Company, including the implementation of the SISP, the Parties share a common legal and commercial interest in all Confidential Information which is and remains subject to all applicable privileges, including solicitor-client privilege, anticipation of litigation privilege, work product privilege and privilege in respect of "without prejudice" communications. No waiver of any privilege is implied by the disclosure of Confidential Information to any person pursuant to the terms of this Agreement.

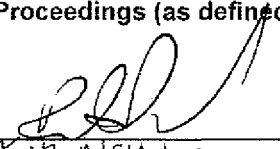
#### **Section 6 Miscellaneous.**

1. Time is of the essence in this Agreement.
2. No waiver of any provision of this Agreement constitutes a waiver of any other provision.
3. This Agreement is binding on and enures to the benefit of the Parties and their respective successors and permitted assigns.
4. Neither this Agreement nor any of the rights or obligations under this Agreement is assignable or transferable by a Party without the prior written consent of the other party.
5. This Agreement may be executed in any number of counterparts (including by facsimile) and all counterparts taken together constitute one and the same instrument.
6. The Parties acknowledge that Arctic Glacier Inc. is signing on behalf of Arctic Glacier Income Fund and on behalf of its subsidiaries that are Applicants in the CCAA Proceedings, it is entering this Agreement solely on behalf of the Company and the obligations of the Company hereunder shall not be personally binding upon any trustee of Arctic Glacier Income Fund or any registered or beneficial holder of units or any annuitant under a plan of which the holder of units acts as a trustee or carrier, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, any of the

foregoing or the private property of any of the foregoing in respect of the indebtedness, obligation or liability of the Company arising hereunder or arising in connection with or from the matters to which this Agreement relates.

**IN WITNESS WHEREOF** this Agreement has been executed.

**ARCTIC GLACIER INC.**  
on its own behalf and on behalf of Arctic  
Glacier Income Fund and its  
subsidiaries that are applicants for the  
CCAA Proceedings (as defined herein)

Per:   
Name: Keith McMahon  
Title: President & CEO

**Kohn, Swift & Graf, P.C.**

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

**MNP Ltd.**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Dickinson Wright LLP**

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



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subsidiaries that are applicants for the  
CCAA Proceedings (as defined herein)

Per: \_\_\_\_\_  
Name:  
Title:

**Kohn, Swift & Graf, P.C.**

By: 

**MNP Ltd.**

Per: \_\_\_\_\_  
Name:  
Title:

**Dickinson Wright LLP**

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

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**ARCTIC GLACIER INC.**  
on its own behalf and on behalf of Arctic  
Glacier Income Fund and its  
subsidiaries that are applicants for the  
CCAA Proceedings (as defined herein)

Per: \_\_\_\_\_  
Name:  
Title:

**Kohn, Swift & Graf, P.C.**

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

**MNP Ltd.**

Per:   
Name: Jerry Henechovicz  
Title: Senior Vice President

**Dickinson Wright LLP**

By: 

**Schedule "B"**

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

THE HONOURABLE MADAM	)	TUESDAY, THE 15 <sup>th</sup>
	)	
JUSTICE SPIVAK	)	DAY OF MAY, 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

**ORDER**

THIS MOTION, made by the class of direct purchaser plaintiffs (the "**Direct Purchasers**") in a certain class action in case No. 08-MDL-01952 in the United States District Court, Eastern District of Michigan, South Division, for various relief including an Order requiring the Applicants and the Monitor provide the Direct Purchasers with certain confidential information presently subject to a sealing order in accordance with the Initial Order of the Honourable Madam Justice Spivak dated February 22, 2012 (the "**Initial Order**"), was heard this day at the Law Courts Building at 408 York Avenue, in The City of Winnipeg, in the Province of Manitoba.

ON the consent of the Applicants, the Monitor, the DIP Lenders, the Lenders and the Direct Purchasers, and on hearing the submissions of counsel for the Trustees, and on being advised that a settlement has been reached in respect of this Motion, no one appearing for any other party although duly served as appears from the affidavit of service,

1. THIS COURT ORDERS that capitalized terms herein shall have the meaning ascribed thereto in the Initial Order.

#### **DISCLOSURE OF SEALED INFORMATION AND DOCUMENTS**

2. THIS COURT ORDERS that paragraph 63 of the Initial Order be varied to permit the Applicants to disclose a summary of the financial terms of the Financial Advisor Engagement Letter and a copy of the DIP Fee Letter to the attorney for the Direct Purchasers bound by the settlement, his Canadian counsel and his financial advisor (the “**Recipients**”) on the terms set out in the confidentiality agreement agreed to by the Applicants and the Recipients, attached hereto as Schedule “B” (the “**Confidentiality Agreement**”), and that such information and documents shall remain confidential and shall be kept confidential by the Recipients as set out in the Confidentiality Agreement.

#### **PAYMENT OF CERTAIN PROFESSIONAL COSTS OF THE DIRECT PURCHASERS**

3. THIS COURT ORDERS that the Applicants shall pay the documented professional expenses actually incurred by the Direct Purchasers for the fees and disbursements of the Recipients solely for the purpose of monitoring these proceedings and for evaluating financial information with respect to the Applicants and information concerning the sale or restructuring of the Business and expressly not including fees and/or disbursements incurred for non-consensual litigation services or litigation support services (the “**Permitted Advisor Fees**”), to the limit of \$100,000 in the aggregate.

4. THIS COURT ORDERS that the Recipients shall be entitled to the benefit of and are hereby granted a charge (the “**Direct Purchasers’ Advisors’ Charge**”) in the amount of C\$100,000 on the Property, as security for payment of the Permitted Advisor Fees as

provided in paragraph 3 above. The Direct Purchasers' Advisors' Charge shall rank *pari passu* with the Administration Charge and the Financial Advisor Charge and shall be deemed discharged immediately on payment of the Permitted Advisor Fees in full or on the payment of C\$100,000 on account of the Permitted Advisor Fees, whichever occurs first.

**DISCLOSURE OF BID SUMMARY TO LENDERS**

5. THIS COURT ORDERS that the portion of paragraph 43(d) of the Initial Order that provides that "the Monitor, the Financial Advisor, the CPS and the Arctic Glacier Parties shall not provide information to the Agent or the DIP Lenders concerning the SISP except in accordance with the SISP" be varied by adding the following proviso "provided that, in the event that no Credit Bid is submitted prior to the Phase 2 Bid Deadline, the Monitor, the Financial Advisor, the CPS and the Arctic Glacier Parties may provide information concerning the bids received in Phase 2 of the SISP (which information shall be at least as detailed as the information provided to the Recipients) to the Agent and/or the Lenders."

**BALANCE OF THE MOTION DISMISSED**

6. THIS COURT ORDERS that the balance of the relief requested by the Direct Purchasers in this Motion is hereby dismissed.

7. THIS COURT ORDERS that there shall be no order as to costs.

---

SPIVAK, 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" – Confidentiality Agreement**



**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

---

**ORDER**

DATE OF HEARING: TUESDAY, MAY 15 2012 AT 10 A.M.  
BEFORE THE HONOURABLE MADAM JUSTICE SPIVAK

---

**McCARTHY TÉTRAULT LLP**  
Suite 5300, Box 48  
Toronto Dominion Bank Tower  
Toronto-Dominion Centre  
Toronto, ON M5K 1E6

**Kevin McElcheran**  
Tel: (416) 601-7730  
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Law Society No. 22119H

**Heather L. Meredith**  
Tel: (416) 601-8342  
Fax: (416) 868-0673  
Law Society No. 48354R

**AIKINS, MacAULAY &  
THORVALDSON LLP**  
30<sup>th</sup> Floor – 360 Main Street  
Winnipeg, MB R3C 4G1

**G. Bruce Taylor**  
Tel: (204) 957-4669  
Fax: (204) 957-4218

**J.J. Burnell**  
Tel: (204) 957-4663  
Fax: (204) 957-4285

File No.: 1103500

# **APPENDIX “D”**

**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  
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**ORDER**

DATE OF HEARING: TUESDAY, MAY 15 2012 AT 10 A.M.  
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File No.: 1103500

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

THE HONOURABLE MADAM	)	TUESDAY, THE 15 <sup>th</sup>
	)	
JUSTICE SPIVAK	)	DAY OF MAY, 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  
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(collectively, the "Applicants")

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

**ORDER**

THIS MOTION, made by the class of direct purchaser plaintiffs (the "**Direct Purchasers**") in a certain class action in case No. 08-MDL-01952 in the United States District Court, Eastern District of Michigan, South Division, for various relief including an Order requiring the Applicants and the Monitor provide the Direct Purchasers with certain confidential information presently subject to a sealing order in accordance with the Initial Order of the Honourable Madam Justice Spivak dated February 22, 2012 (the "**Initial Order**"), was heard this day at the Law Courts Building at 408 York Avenue, in The City of Winnipeg, in the Province of Manitoba.

ON the consent of the Applicants, the Monitor, the DIP Lenders, the Lenders and the Direct Purchasers, and on hearing the submissions of counsel for the Trustees, and on being advised that a settlement has been reached in respect of this Motion, no one appearing for any other party although duly served as appears from the affidavit of service,

1. THIS COURT ORDERS that capitalized terms herein shall have the meaning ascribed thereto in the Initial Order.

#### **DISCLOSURE OF SEALED INFORMATION AND DOCUMENTS**

2. THIS COURT ORDERS that paragraph 63 of the Initial Order be varied to permit the Applicants to disclose a summary of the financial terms of the Financial Advisor Engagement Letter and a copy of the DIP Fee Letter to the attorney for the Direct Purchasers bound by the settlement, his Canadian counsel and his financial advisor (the "**Recipients**") on the terms set out in the confidentiality agreement agreed to by the Applicants and the Recipients, attached hereto as Schedule "B" (the "**Confidentiality Agreement**"), and that such information and documents shall remain confidential and shall be kept confidential by the Recipients as set out in the Confidentiality Agreement.

#### **PAYMENT OF CERTAIN PROFESSIONAL COSTS OF THE DIRECT PURCHASERS**

3. THIS COURT ORDERS that the Applicants shall pay the documented professional expenses actually incurred by the Direct Purchasers for the fees and disbursements of the Recipients solely for the purpose of monitoring these proceedings and for evaluating financial information with respect to the Applicants and information concerning the sale or restructuring of the Business and expressly not including fees and/or disbursements incurred for non-consensual litigation services or litigation support services (the "**Permitted Advisor Fees**"), to the limit of \$100,000 in the aggregate.

4. THIS COURT ORDERS that the Recipients shall be entitled to the benefit of and are hereby granted a charge (the "**Direct Purchasers' Advisors' Charge**") in the amount of C\$100,000 on the Property, as security for payment of the Permitted Advisor Fees as

provided in paragraph 3 above. The Direct Purchasers' Advisors' Charge shall rank *pari passu* with the Administration Charge and the Financial Advisor Charge and shall be deemed discharged immediately on payment of the Permitted Advisor Fees in full or on the payment of C\$100,000 on account of the Permitted Advisor Fees, whichever occurs first.

**DISCLOSURE OF BID SUMMARY TO LENDERS**

5. THIS COURT ORDERS that the portion of paragraph 43(d) of the Initial Order that provides that "the Monitor, the Financial Advisor, the CPS and the Arctic Glacier Parties shall not provide information to the Agent or the DIP Lenders concerning the SISP except in accordance with the SISP" be varied by adding the following proviso "provided that, in the event that no Credit Bid is submitted prior to the Phase 2 Bid Deadline, the Monitor, the Financial Advisor, the CPS and the Arctic Glacier Parties may provide information concerning the bids received in Phase 2 of the SISP (which information shall be at least as detailed as the information provided to the Recipients) to the Agent and/or the Lenders."

**BALANCE OF THE MOTION DISMISSED**

6. THIS COURT ORDERS that the balance of the relief requested by the Direct Purchasers in this Motion is hereby dismissed.

7. THIS COURT ORDERS that there shall be no order as to costs.

*May 15, 2012.*

**L. SPIVAK**  
\_\_\_\_\_  
SPIVAK, 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" – Confidentiality Agreement**



## CONFIDENTIALITY AGREEMENT

Confidentiality agreement dated May 14, 2012 between Arctic Glacier Income Fund on its own behalf and on behalf of its subsidiaries that are Applicants in proceedings (the "**CCAA Proceedings**") commenced by an Initial Order (the "**Initial Order**") made by the Manitoba Court of Queen's Bench on February 22, 2012 under the *Companies' Creditors Arrangement Act* (collectively, the "**Company**") and (1) Kohn, Swift & Graf, P.C., the attorneys for the representative plaintiffs in a certain class action, case No. 08-MDL-01952 in the United States District Court, Eastern District of Michigan, South Division which was settled by a settlement agreement dated March 30, 2011 and an amendment to settlement agreement dated October 26, 2011 (the "**Class Action**"), (2) MNP Ltd., the financial advisor to Kohn, Swift & Graf, P.C. and (3) Dickinson Wright LLP counsel to Kohn, Swift & Graf, P.C. (together, the "**Counterparties**") (the Company and the Counterparties are collectively the "**Parties**" or individually a "**Party**").

Solely for purposes of evaluating steps taken by the Company in the CCAA Proceedings, including the Company's efforts to implement a transaction as contemplated by the sales and investment solicitation process ("**SISP**") approved in the Initial Order (the "**Permitted Purpose**"), the Counterparties have asked the Company to disclose confidential information relating to the CCAA Proceedings and its business and affairs. This Agreement sets out the terms under which the Company is willing to disclose Confidential Information (as defined below) and the terms under which the Counterparties may receive and use such Confidential Information.

### Section 1 Non-Disclosure of Confidential Information.

1. The Counterparties shall (i) keep confidential all information disclosed by the Company to the Counterparties relating to the CCAA Proceedings and/or the Company's business, operations, assets, liabilities, plans, prospects and affairs, including without limitation the information and documents previously subject to a sealing order in accordance with the Initial Order, regardless of whether such information is provided in oral, visual, electronic, written or other form and whether or not it is identified as "confidential" and including all notes, analyses, compilations, forecasts, data, studies, interpretations, or other documents prepared by, on behalf of or for the benefit of, the Counterparties that contain, reflect, summarize, analyze, discuss or review any of the foregoing (the "**Confidential Information**"), (ii) use the Confidential Information solely for the Permitted Purpose and not directly or indirectly for any other purpose, and (iii) not disclose such Confidential Information to any person, including without limitation the representative plaintiffs in the Class Action, except as expressly permitted by this Agreement. Confidential Information does not include any information that:
  - (a) is or becomes generally available to the public (other than as a result of disclosure directly or indirectly by the Counterparties);
  - (b) is or becomes available to the Counterparties on a non-confidential basis from a source other than the Company provided such source does not owe a duty of confidentiality to the Company or to any other person; or
  - (c) is or was independently acquired or developed by the Counterparties without use of any information disclosed by the Company.
2. The disclosure restrictions contained in this Agreement do not apply to any information that is required to be disclosed by law. However, prior to making such disclosure, the Counterparties must unless prohibited by law:

- (a) immediately advise the Company of the requirement;
  - (b) cooperate with the Company in limiting the extent of the disclosure;
  - (c) provide the Company with a reasonable opportunity to obtain a protective order or other remedy in order to preserve the confidentiality of the information required to be disclosed; and
  - (d) disclose only that portion of the Confidential Information which the Counterparties are advised by legal counsel is required to be disclosed.
3. At the Company's request, at any time, the Counterparties shall promptly redeliver to the Company all Confidential Information delivered to the Counterparties and will not retain, in any form, any copies of any such Confidential Information in whole or in part, and the Counterparties shall ensure that all documents, memoranda and notes, in any form, prepared by the Counterparties based on the Confidential Information shall be promptly destroyed, and will certify to the Company in writing that such redelivery and destruction have taken place. Notwithstanding the return or destruction of the Confidential Information, the Counterparties shall continue to be bound by their confidentiality and other obligations hereunder.
4. The Counterparties shall take all steps reasonably necessary to ensure that their respective representatives and employees who have access to the Confidential Information for the Permitted Purpose are aware of and comply with the provisions of this Confidentiality Agreement.

## **Section 2 No Representation or Warranty.**

Each of the Counterparties acknowledges and agrees that the Company and the Monitor make no representation or warranty, expressed or implied, in relation to any of the Confidential Information, its adequacy, accuracy, sufficiency, completeness, or suitability for any particular purpose, and that neither the Company nor its advisors or representatives or the Monitor will have any liability to any of the Counterparties or to any other person for any losses, liabilities, damages, claims, demands, or expenses resulting from, connected with or arising out of resulting from any inadequacy, inaccuracy, insufficiency, incompleteness or unsuitability of the Confidential Information or the use of or reliance on the Confidential Information. Nothing in this Agreement or in the disclosure of any Confidential Information confers any interest in the Confidential Information on the Counterparties. It is specifically agreed that the disclosure of confidential information to the Counterparties does not confer any licence under any patent, trademark, copyright, or any other intellectual property right, by implication or otherwise.

## **Section 3 Remedies.**

In the event of a breach of any of the Counterparties' obligations under this Agreement, the Counterparties must, immediately following discovery of the breach, give notice to the Company of the nature of the breach and take all commercially reasonable and necessary steps to limit the extent of the breach. The Counterparties agree that any breach of this Agreement will give rise to irreparable injury to the Company inadequately compensable in damages. The Company may, in addition to any other remedy, enforce the performance of this Agreement by way of injunction or specific performance upon application to a court of competent jurisdiction without proof of actual damages (and without the requirement of posting a bond or other security) and without the need to establish irreparable harm and each of the Counterparties agrees not to

plead sufficiency of damages as a defence in any such proceeding and further agrees (and will agree in any proceeding) that the fact of disclosure causes irreparable harm to the Company. The rights and remedies provided in this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or equity. Further, upon discovery of a breach of any of the Counterparties' obligations under this Agreement which is confirmed by the Monitor, if any fees are payable by the Company to the Counterparties, such fees will not be paid pending a resolution of all issues surrounding such breach.

#### **Section 4 Entire Agreement.**

This Agreement constitutes the entire agreement among the Parties in respect of Confidential Information and supersedes all prior agreements, representations, warranties covenants or understandings, whether written or oral, relating to the subject matter of this Agreement. This Agreement may be amended or modified only by written instrument executed by all of the Parties. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the Province of Manitoba and each of the Counterparties attorns to the non-exclusive jurisdiction of the Province of Manitoba. In case any provision of this Agreement shall be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

#### **Section 5 Other Covenants and Agreements.**

In respect of Confidential Information relating the to the business and affairs of the Company, including the implementation of the SISP, the Parties share a common legal and commercial interest in all Confidential Information which is and remains subject to all applicable privileges, including solicitor-client privilege, anticipation of litigation privilege, work product privilege and privilege in respect of "without prejudice" communications. No waiver of any privilege is implied by the disclosure of Confidential Information to any person pursuant to the terms of this Agreement.

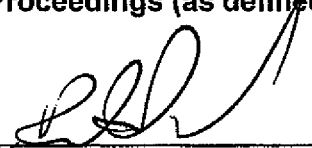
#### **Section 6 Miscellaneous.**

1. Time is of the essence in this Agreement.
2. No waiver of any provision of this Agreement constitutes a waiver of any other provision.
3. This Agreement is binding on and enures to the benefit of the Parties and their respective successors and permitted assigns.
4. Neither this Agreement nor any of the rights or obligations under this Agreement is assignable or transferable by a Party without the prior written consent of the other party.
5. This Agreement may be executed in any number of counterparts (including by facsimile) and all counterparts taken together constitute one and the same instrument.
6. The Parties acknowledge that Arctic Glacier Inc. is signing on behalf of Arctic Glacier Income Fund and on behalf of its subsidiaries that are Applicants in the CCAA Proceedings, it is entering this Agreement solely on behalf of the Company and the obligations of the Company hereunder shall not be personally binding upon any trustee of Arctic Glacier Income Fund or any registered or beneficial holder of units or any annuitant under a plan of which the holder of units acts as a trustee or carrier, and that resort shall not be had to, nor shall recourse or satisfaction be sought from, any of the

foregoing or the private property of any of the foregoing in respect of the indebtedness, obligation or liability of the Company arising hereunder or arising in connection with or from the matters to which this Agreement relates.

**IN WITNESS WHEREOF** this Agreement has been executed.

**ARCTIC GLACIER INC.**  
on its own behalf and on behalf of Arctic  
Glacier Income Fund and its  
subsidiaries that are applicants for the  
CCAA Proceedings (as defined herein)

Per:   
Name: Keith McMahon  
Title: President + CEO

**Kohn, Swift & Graf, P.C.**

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

**MNP Ltd.**

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Dickinson Wright LLP**

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

foregoing or the private property of any of the foregoing in respect of the indebtedness, obligation or liability of the Company arising hereunder or arising in connection with or from the matters to which this Agreement relates.

**IN WITNESS WHEREOF** this Agreement has been executed.

**ARCTIC GLACIER INC.**  
on its own behalf and on behalf of Arctic  
Glacier Income Fund and its  
subsidiaries that are applicants for the  
CCAA Proceedings (as defined herein)

Per: \_\_\_\_\_  
Name:  
Title:

**Kohn, Swift & Graf, P.C.**

By: 

**MNP Ltd.**

Per: \_\_\_\_\_  
Name:  
Title:

**Dickinson Wright LLP**

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

foregoing or the private property of any of the foregoing in respect of the indebtedness, obligation or liability of the Company arising hereunder or arising in connection with or from the matters to which this Agreement relates.

**IN WITNESS WHEREOF** this Agreement has been executed.

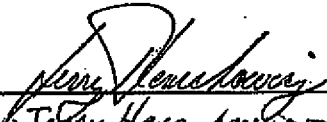
**ARCTIC GLACIER INC.**  
on its own behalf and on behalf of Arctic  
Glacier Income Fund and its  
subsidiaries that are applicants for the  
CCAA Proceedings (as defined herein)

Per: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Kohn, Swift & Graf, P.C.**

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

**MNP Ltd.**

Per:   
Name: Jerry Henecio  
Title: Senior Vice President

**Dickinson Wright LLP**

By: 

foregoing or the private property of any of the foregoing in respect of the indebtedness, obligation or liability of the Company arising hereunder or arising in connection with or from the matters to which this Agreement relates.

**IN WITNESS WHEREOF** this Agreement has been executed.

**ARCTIC GLACIER INC.**  
on its own behalf and on behalf of Arctic  
Glacier Income Fund and its  
subsidiaries that are applicants for the  
CCAA Proceedings (as defined herein)

Per: \_\_\_\_\_  
Name:  
Title:

**Kohn, Swift & Graf, P.C.**

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

**MNP Ltd.**

Per: \_\_\_\_\_  
Name:  
Title:

**Dickinson Wright LLP**

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

# **APPENDIX “E”**



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# ARCTIC GLACIER INCOME FUND

## **Arctic Glacier Income Fund Provides Update On Sale And Investor Solicitation Process**

### *Strong Interest Prompts Special Committee To Authorize Commencement of Phase II*

**WINNIPEG – April 12, 2012 – Arctic Glacier Income Fund** (CNSX: AG) (“Arctic Glacier” or the “Fund”) announced today that a special committee of its board of trustees (the “Special Committee”) has authorized commencement of Phase II of the Sale and Investor Solicitation Process (“SISP”).

During Phase I of the SISP, Arctic Glacier’s financial advisor, TD Securities Inc. (“TD Securities”) solicited and received non-binding letters of intent (“LOIs”) from several interested parties to acquire or to invest in Arctic Glacier. Alvarez & Marsal Canada Inc, (the “Monitor”), in consultation with TD Securities, the Chief Process Supervisor and Arctic Glacier, determined that multiple LOIs were qualified for inclusion in Phase II. As a result, TD Securities and the Monitor recommended that the Special Committee authorize the commencement of Phase II of the SISP.

Arctic Glacier, with the assistance of TD Securities, will now make additional information available to parties invited to Phase II and will then seek submission of binding proposals regarding a transaction with the Fund. Phase II is expected to require a period of several weeks to complete and there can be no assurance that any transaction may occur.

“We are very pleased with the level of interest that surfaced in Phase I,” said Keith McMahon, President and CEO of Arctic Glacier. “We received indications of interest from a large group of prospective acquirers and investors, and are optimistic about Phase II of the process. We will continue to work with these parties and expect to conclude a transaction for the benefit of all Arctic Glacier stakeholders.”

Commenting on today’s news release from Reddy Ice Holdings, Inc. (“Reddy Ice”) in connection with their U.S. Chapter 11 bankruptcy proceedings and interest in a combination with Arctic Glacier, Mr. McMahon said, “We have received a non-binding letter of intent from Reddy Ice. Reddy Ice is one of many parties that have expressed interest in our process and from whom a non-binding letter of intent was received. We do not intend to disclose the identities of any of our Phase II participants.”

### **About Arctic Glacier**

*Arctic Glacier Income Fund, through its operating company, Arctic Glacier Inc., is a leading producer, marketer and distributor of high-quality packaged ice in North America, primarily under the brand name of Arctic Glacier® Premium Ice. Arctic Glacier operates 39 production plants and 47 distribution facilities across Canada and the northeast, central and western United States servicing more than 75,000 retail locations.*

*Arctic Glacier Income Fund trust units are listed on the Canadian National Stock Exchange under the trading symbol AG.UN. There are 350.3 million trust units outstanding.*

### **Forward-Looking Information**

Certain matters set forth in this news release, including statements with respect to the SISP are forward looking. These forward-looking statements reflect management's current views and are based on certain assumptions including assumptions as to future operating conditions and courses of action, the Phase II process participants, the LOIs, sale or recapitalization alternatives, economic conditions and other factors management believes are appropriate. Such forward looking statements are subject to risks and uncertainties that may cause actual results to differ materially from those contained in these statements, including the risk that sale or recapitalization alternatives may not be available to Arctic Glacier or may not be available on terms favourable to Arctic Glacier and its security holders or that any such sale would yield proceeds sufficient for any distribution to Arctic Glacier's unitholders, as well as those risks and uncertainties identified under the heading "Risks Management" in Arctic Glacier's management's discussion and analysis for the year ended December 31, 2011, available at [www.sedar.com](http://www.sedar.com). These forward-looking statements are made as at the date of this news release, and the Fund assumes no obligation to update or revise them, either publicly or otherwise, to reflect new events, information or circumstances.

### **Contact Information**

Keith McMahan, President & CEO

Doug Bailey, Chief Financial Officer

Toll free investor relations phone: 1-888-573-9237

**[www.arcticglacier.com](http://www.arcticglacier.com)**

# **APPENDIX “F”**

Arctic Glacier  
**CONSOLIDATED weekly cash flow forecast**  
For the 13-week period ending August 31, 2012  
(Unaudited, in \$'000 USD)

	<i>Week 1</i>	<i>Week 2</i>	<i>Week 3</i>	<i>Week 4</i>	<i>Week 5</i>	<i>Week 6</i>	<i>Week 7</i>	<i>Week 8</i>	<i>Week 9</i>	<i>Week 10</i>	<i>Week 11</i>	<i>Week 12</i>	<i>Week 13</i>	<b>13-week</b>	
	<b>8-Jun</b>	<b>15-Jun</b>	<b>22-Jun</b>	<b>29-Jun</b>	<b>6-Jul</b>	<b>13-Jul</b>	<b>20-Jul</b>	<b>27-Jul</b>	<b>3-Aug</b>	<b>10-Aug</b>	<b>17-Aug</b>	<b>24-Aug</b>	<b>31-Aug</b>	<b>total</b>	
<b>Receipts</b>															
Customer collections	5,700	5,075	5,075	5,075	6,942	7,877	7,877	7,877	8,464	9,246	9,246	9,246	9,246	96,946	<b>Note 1</b>
<b>Total Receipts</b>	<b>5,700</b>	<b>5,075</b>	<b>5,075</b>	<b>5,075</b>	<b>6,942</b>	<b>7,877</b>	<b>7,877</b>	<b>7,877</b>	<b>8,464</b>	<b>9,246</b>	<b>9,246</b>	<b>9,246</b>	<b>9,246</b>	<b>96,946</b>	
<b>Disbursements</b>															
Supplier payments	816	1,164	1,358	1,248	1,111	815	872	801	862	858	906	896	801	12,508	<b>Note 2</b>
Vehicle & fuel costs	1,017	1,142	905	921	1,614	1,618	1,520	1,641	1,705	2,048	2,211	1,564	1,343	19,249	<b>Note 3</b>
Payroll and related payments	2,184	1,631	1,700	1,795	1,652	2,463	1,751	2,351	2,305	2,554	1,247	2,282	1,229	25,144	<b>Note 4</b>
Facility costs & utilities	519	468	788	873	674	807	1,119	835	992	863	1,070	859	764	10,631	<b>Note 5</b>
Insurance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Capital expenditures	863	863	863	1,130	425	380	380	380	377	173	173	173	173	6,353	<b>Note 6</b>
Selling, general and administration	388	330	170	233	447	330	501	361	348	396	221	215	237	4,177	<b>Note 7</b>
Professional fees	640	737	850	809	770	640	510	430	3,000	690	1,100	820	790	11,786	<b>Note 8</b>
<b>Total Disbursements</b>	<b>6,427</b>	<b>6,335</b>	<b>6,634</b>	<b>7,009</b>	<b>6,693</b>	<b>7,053</b>	<b>6,653</b>	<b>6,799</b>	<b>9,589</b>	<b>7,582</b>	<b>6,928</b>	<b>6,809</b>	<b>5,337</b>	<b>89,848</b>	
<b>Net Cash Flow Before Debt Service Costs</b>	<b>(727)</b>	<b>(1,260)</b>	<b>(1,559)</b>	<b>(1,934)</b>	<b>249</b>	<b>824</b>	<b>1,224</b>	<b>1,078</b>	<b>(1,125)</b>	<b>1,664</b>	<b>2,318</b>	<b>2,437</b>	<b>3,909</b>	<b>7,098</b>	
Debt service costs (including DIP facility)	262	-	-	557	-	-	-	472	-	22	-	-	-	1,313	<b>Note 9</b>
<b>Net Cash Flow After Debt Service Costs</b>	<b>(989)</b>	<b>(1,260)</b>	<b>(1,559)</b>	<b>(2,491)</b>	<b>249</b>	<b>824</b>	<b>1,224</b>	<b>606</b>	<b>(1,125)</b>	<b>1,642</b>	<b>2,318</b>	<b>2,437</b>	<b>3,909</b>	<b>5,785</b>	
<b>Opening Cash Balance</b>	5,278	4,289	5,029	5,470	4,979	5,228	6,052	7,276	7,882	6,757	8,399	10,717	13,154	5,278	
Net cash flow	(989)	(1,260)	(1,559)	(2,491)	249	824	1,224	606	(1,125)	1,642	2,318	2,437	3,909	5,785	
DIP facility advances/(repayments), net	-	2,000	2,000	2,000	-	-	-	-	-	-	-	-	-	6,000	
<b>Ending Cash Balance</b>	<b>4,289</b>	<b>5,029</b>	<b>5,470</b>	<b>4,979</b>	<b>5,228</b>	<b>6,052</b>	<b>7,276</b>	<b>7,882</b>	<b>6,757</b>	<b>8,399</b>	<b>10,717</b>	<b>13,154</b>	<b>17,063</b>	<b>17,063</b>	
<b>Permitted DIP facility cumulative draw</b>	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	-	-	-	-	-	-	
DIP facility cumulative draw	23,000	25,000	27,000	29,000	29,000	29,000	29,000	29,000	-	-	-	-	-	-	
<b>Net DIP facility availability</b>	<b>27,000</b>	<b>25,000</b>	<b>23,000</b>	<b>21,000</b>	<b>21,000</b>	<b>21,000</b>	<b>21,000</b>	<b>21,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	

Prepared by Management. To be read in conjunction with the attached Notes and Summary of Assumptions

Arctic Glacier

UNITED STATES weekly cash flow forecast

For the 13-week period ending August 31, 2012

(Unaudited, in \$'000 USD)

	<i>Week 1</i>	<i>Week 2</i>	<i>Week 3</i>	<i>Week 4</i>	<i>Week 5</i>	<i>Week 6</i>	<i>Week 7</i>	<i>Week 8</i>	<i>Week 9</i>	<i>Week 10</i>	<i>Week 11</i>	<i>Week 12</i>	<i>Week 13</i>	<b>13-week</b>
	<b>8-Jun</b>	<b>15-Jun</b>	<b>22-Jun</b>	<b>29-Jun</b>	<b>6-Jul</b>	<b>13-Jul</b>	<b>20-Jul</b>	<b>27-Jul</b>	<b>3-Aug</b>	<b>10-Aug</b>	<b>17-Aug</b>	<b>24-Aug</b>	<b>31-Aug</b>	<b>total</b>
<b>Receipts</b>														
Customer collections	4,638	4,013	4,013	4,013	5,288	6,125	6,125	6,125	6,527	7,062	7,062	7,062	7,062	75,115
Other receipts (intercompany transfers)	-	-	-	-	(600)	-	-	-	(600)	-	-	-	-	(1,200)
<b>Total Receipts</b>	<b>4,638</b>	<b>4,013</b>	<b>4,013</b>	<b>4,013</b>	<b>4,688</b>	<b>6,125</b>	<b>6,125</b>	<b>6,125</b>	<b>5,927</b>	<b>7,062</b>	<b>7,062</b>	<b>7,062</b>	<b>7,062</b>	<b>73,915</b>
<b>Disbursements</b>														
Supplier payments	696	1,069	1,189	1,118	903	584	678	593	712	686	684	760	660	10,332
Vehicle & fuel costs	795	1,060	729	637	1,291	1,343	1,106	1,260	1,089	1,345	1,700	966	936	14,257
Payroll and related payments	850	1,631	919	1,794	938	2,315	1,052	2,201	581	2,280	702	2,004	725	17,992
Facility costs & utilities	318	419	741	746	598	713	1,040	576	775	700	1,003	691	542	8,862
Insurance	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Capital expenditures	863	863	863	1,130	425	380	380	380	377	173	173	173	173	6,353
Selling, general and administration	227	232	99	107	214	217	198	257	227	207	114	174	85	2,358
Professional fees	80	110	110	100	100	90	80	100	50	170	90	120	100	1,300
<b>Total Disbursements</b>	<b>3,829</b>	<b>5,384</b>	<b>4,650</b>	<b>5,632</b>	<b>4,469</b>	<b>5,642</b>	<b>4,534</b>	<b>5,367</b>	<b>3,811</b>	<b>5,561</b>	<b>4,466</b>	<b>4,888</b>	<b>3,221</b>	<b>61,454</b>
<b>Net Cash Flow Before Debt Service Costs</b>	<b>809</b>	<b>(1,371)</b>	<b>(637)</b>	<b>(1,619)</b>	<b>219</b>	<b>483</b>	<b>1,591</b>	<b>758</b>	<b>2,116</b>	<b>1,501</b>	<b>2,596</b>	<b>2,174</b>	<b>3,841</b>	<b>12,461</b>
Debt service costs (including DIP facility)	262	-	-	312	-	-	-	146	-	8	-	-	-	728
<b>Net Cash Flow After Debt Service Costs</b>	<b>547</b>	<b>(1,371)</b>	<b>(637)</b>	<b>(1,931)</b>	<b>219</b>	<b>483</b>	<b>1,591</b>	<b>612</b>	<b>2,116</b>	<b>1,493</b>	<b>2,596</b>	<b>2,174</b>	<b>3,841</b>	<b>11,733</b>
<b>Opening Cash Balance</b>	2,666	3,213	1,842	1,205	1,274	1,493	1,976	3,567	4,179	6,295	7,788	10,384	12,558	2,666
Net cash flow	547	(1,371)	(637)	(1,931)	219	483	1,591	612	2,116	1,493	2,596	2,174	3,841	11,733
DIP facility advances/(repayments), net	-	-	-	2,000	-	-	-	-	-	-	-	-	-	2,000
<b>Ending Cash Balance</b>	<b>3,213</b>	<b>1,842</b>	<b>1,205</b>	<b>1,274</b>	<b>1,493</b>	<b>1,976</b>	<b>3,567</b>	<b>4,179</b>	<b>6,295</b>	<b>7,788</b>	<b>10,384</b>	<b>12,558</b>	<b>16,399</b>	<b>16,399</b>

Prepared by Management. To be read in conjunction with the attached Notes and Summary of Assumptions

Arctic Glacier

CANADA weekly cash flow forecast

For the 13-week period ending August 31, 2012

(Unaudited, in \$'000 USD)

	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	13-week total
	8-Jun	15-Jun	22-Jun	29-Jun	6-Jul	13-Jul	20-Jul	27-Jul	3-Aug	10-Aug	17-Aug	24-Aug	31-Aug	
<b>Receipts</b>														
Customer collections	1,062	1,062	1,062	1,062	1,654	1,752	1,752	1,752	1,937	2,184	2,184	2,184	2,184	21,831
Other receipts (intercompany transfers)	-	-	-	-	600	-	-	-	600	-	-	-	-	1,200
<b>Total Receipts</b>	<b>1,062</b>	<b>1,062</b>	<b>1,062</b>	<b>1,062</b>	<b>2,254</b>	<b>1,752</b>	<b>1,752</b>	<b>1,752</b>	<b>2,537</b>	<b>2,184</b>	<b>2,184</b>	<b>2,184</b>	<b>2,184</b>	<b>23,031</b>
<b>Disbursements</b>														
Supplier payments	120	95	169	130	208	231	194	208	150	172	222	136	141	2,176
Vehicle & fuel costs	222	82	176	284	323	275	414	381	616	703	511	598	407	4,992
Payroll and related payments	1,334	-	781	1	714	148	699	150	1,724	274	545	278	504	7,152
Facility costs & utilities	201	49	47	127	76	94	79	259	217	163	67	168	222	1,769
Insurance	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Capital expenditures	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Selling, general and administration	161	98	71	126	233	113	303	104	121	189	107	41	152	1,819
Professional fees	560	627	740	709	670	550	430	330	2,950	520	1,010	700	690	10,486
<b>Total Disbursements</b>	<b>2,598</b>	<b>951</b>	<b>1,984</b>	<b>1,377</b>	<b>2,224</b>	<b>1,411</b>	<b>2,119</b>	<b>1,432</b>	<b>5,778</b>	<b>2,021</b>	<b>2,462</b>	<b>1,921</b>	<b>2,116</b>	<b>28,394</b>
<b>Net Cash Flow Before Debt Service Costs</b>	<b>(1,536)</b>	<b>111</b>	<b>(922)</b>	<b>(315)</b>	<b>30</b>	<b>341</b>	<b>(367)</b>	<b>320</b>	<b>(3,241)</b>	<b>163</b>	<b>(278)</b>	<b>263</b>	<b>68</b>	<b>(5,363)</b>
Debt service costs (including DIP facility)	-	-	-	245	-	-	-	326	-	14	-	-	-	585
<b>Net Cash Flow After Debt Service Costs</b>	<b>(1,536)</b>	<b>111</b>	<b>(922)</b>	<b>(560)</b>	<b>30</b>	<b>341</b>	<b>(367)</b>	<b>(6)</b>	<b>(3,241)</b>	<b>149</b>	<b>(278)</b>	<b>263</b>	<b>68</b>	<b>(5,948)</b>
<b>Opening Cash Balance</b>	2,612	1,076	3,187	4,265	3,705	3,735	4,076	3,709	3,703	462	611	333	596	2,612
Net cash flow	(1,536)	111	(922)	(560)	30	341	(367)	(6)	(3,241)	149	(278)	263	68	(5,948)
DIP facility advances/(repayments), net	-	2,000	2,000	-	-	-	-	-	-	-	-	-	-	4,000
<b>Ending Cash Balance</b>	<b>1,076</b>	<b>3,187</b>	<b>4,265</b>	<b>3,705</b>	<b>3,735</b>	<b>4,076</b>	<b>3,709</b>	<b>3,703</b>	<b>462</b>	<b>611</b>	<b>333</b>	<b>596</b>	<b>664</b>	<b>664</b>

Prepared by Management. To be read in conjunction with the attached Notes and Summary of Assumptions

## Arctic Glacier

### Weekly cash flow forecast

#### Notes and Summary of Assumptions

- Note 1** Customer collections are comprised of accounts receivable and forecast sales. Forecast sales volumes and related expenses are projected on the basis of 'normal' weather conditions in markets serviced by Arctic Glacier. Variations from 'normal' weather conditions may lead to material fluctuations in sales volumes and related expenses which could have a material impact on actual cash flows.
- Note 2** Supplier payments include disbursements for packaging, pallets and other related products.
- Note 3** Vehicle & fuel costs include disbursements for leases, rentals, fuel and repairs & maintenance. Fuel costs are forecast based on average fuel prices in Arctic Glacier's markets.
- Note 4** Payroll and related payments include salaries, wages, remittances, pension costs and other benefits and amounts disbursed in accordance with the Key Employee Retention Plan.
- Note 5** Facility costs include lease payments, property taxes and repairs & maintenance. Utilities are incurred primarily in the production of ice.
- Note 6** Capital expenditures are forecast based on Arctic Glacier's existing capital plan and include disbursements for sustaining and growth expenditures.
- Note 7** Selling, general and administration disbursements relate to office costs and other disbursements.
- Note 8** Professional fees include recurring fees in connection with ongoing operations of the business as well as CCAA professional fees.
- Note 9** Debt service costs include commitment fees and interest on the First Lien Credit Agreement and the DIP Facility.
- Note 10** The Cash Flow Forecast does not provide for any litigation settlement payments, including the DOJ Settlement, settlements under the U.S. Civil Class Actions and the U.S. Direct Purchaser Settlement (as defined in the McMahon Affidavit) and a \$2.0 million obligation relating to a settlement made with certain Canadian direct purchasers (the "Canadian Direct Purchaser Settlement").
- Note 11** The Can\$/US\$ exchange rate is forecast at C\$1:US\$1 throughout the period.