

**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")**

**THIRTEENTH REPORT OF THE MONITOR  
ALVAREZ & MARSAL CANADA INC.  
OCTOBER 10, 2013**

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## 1.0 INTRODUCTION

- 1.1 Pursuant to an order of The Court of Queen’s Bench (Winnipeg Centre) (the “**Court**”) dated February 22, 2012 (the “**Initial Order**”), Alvarez & Marsal Canada Inc. was appointed as Monitor (the “**Monitor**”) in respect of an application filed by Arctic Glacier Income Fund (“**AGIF**”), Arctic Glacier Inc. (“**AGI**”), Arctic Glacier International Inc. (“**AGII**”) and those entities listed on **Appendix “A”**, (collectively, and including Glacier Valley Ice Company L.P., the “**Applicants**” or the “**Arctic Glacier Parties**”) 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**”. The CCAA Proceedings were subsequently recognized as a foreign main proceeding by the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”).
- 1.2 The Monitor has previously filed twelve reports with this Honourable Court. Capitalized terms not otherwise defined in this report (the “**Thirteenth Report**”) are as defined in the orders previously granted by, or in the reports previously filed by the Monitor with, this Honourable Court.
- 1.3 The Sale Transaction for substantially all of the Applicants’ business and assets closed on July 27, 2012 (the “**Closing**”). The business formerly operated by the Applicants continues to be carried on by the Purchaser. In anticipation of the Closing, the Applicants sought and obtained the Transition Order dated July 12, 2012 (the “**Transition Order**”). Among other things, the Transition Order provides that, on and after the Closing, the Monitor is empowered and authorized, to take such additional actions and execute such documents, in the name of and on behalf of the Applicants, as

the Monitor considers necessary in order to perform its functions and fulfill its obligations as Monitor, or to assist in facilitating the administration of these CCAA Proceedings.

1.4 As a result of the successful completion of the Sale Transaction, the Monitor is holding significant funds for distribution. On September 5, 2012, this Honourable Court issued an order approving a claims process (the “**Claims Process**”) and, among other things, authorizing, directing and empowering the Monitor to take such actions as contemplated by the Claims Process (the “**Claims Procedure Order**”). The Claims Procedure Order provided for a Claims Bar Date of October 31, 2012. A copy of the Claims Procedure Order is attached as **Appendix “B”**. The U.S. Court recognized the Claims Procedure Order by Order dated September 14, 2012.

1.5 The Claims Procedure Order contemplated a further order of the Court to provide an appropriate process for resolving disputed Claims. Accordingly, on March 7, 2013, this Honourable Court issued an order (the “**Claims Officer Order**”). A copy of the Claims Officer Order is attached as **Appendix “C”**. The Claims Officer Order, among other things:

- i. appointed Mr. Dave Hill and the Honourable Jack Ground, and such other persons as may be appointed by the Court from time to time on application of the Monitor, in consultation with the Arctic Glacier Parties, as Claims Officers for the claims resolution procedure described therein;
- ii. authorized the appointment by the Monitor of further Claims Officers to deal with a specific Claim or DO&T Claim, with the consent of the Arctic Glacier Parties

and the Creditor asserting the Claim, to resolve such Creditor's disputed Claim(s) and/or DO&T Claim(s);

- iii. provided Claims Officers with the exclusive authority to determine the validity and value of disputed Claims, including, determining questions of law, fact and mixed law and fact, and all procedural matters which may arise in respect of a Claims Officer's determination of disputed Claims; and
- iv. provided that, in the event that a dispute raised in a Notice of Dispute is not settled within a time period or in a manner satisfactory to the Monitor, in consultation with the Applicants and the applicable Creditor, the Monitor shall refer the dispute raised in the Notice of Dispute to either a Claims Officer or to the Court.

1.6 The stay of proceedings provided for in the Initial Order (the "**Stay**"), as extended by subsequent orders, currently expires on October 18, 2013 (the "**Stay Period**").

1.7 The purpose of this Thirteenth Report is to:

- i. Provide information in support of the Monitor's motion returnable October 16, 2013 seeking:
  - a) An order abridging and validating service;
  - b) An order extending the Stay Period to February 7, 2014;
  - c) An order (the "**Canadian Approval Order**") in respect of and facilitating the proposed settlement of the Indirect Purchaser Claim (the "**Indirect Purchaser Settlement**") and granting the Class Counsel Charge, as defined below;

- d) An order approving the proposed settlement of the Desert Mountain Motion and related matters;
  - e) An order approving this Thirteenth Report and the Monitor's activities described herein; and
  - f) Certain ancillary relief; and
- ii. Provide an update in respect of matters relating to the Applicants' estate, including the Claims Process, and in particular, the Board Claims and the Management Claims (both as defined below), since the date of the Twelfth Report.

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

## **2.0 SUMMARY OF CURRENT STATUS**

2.1 As set out in greater detail below, the Monitor, in consultation with the Applicants, has made significant progress with respect to the Proofs of Claim filed against the Applicants that remained unresolved as of the date of the Twelfth Report. A number of Proofs of Claim have been accepted, withdrawn or disallowed in accordance with the terms of the Claims Process. The Monitor and the Applicants have also agreed to a number of provisional settlements with respect to several of the significant claims filed in the Claims Process that the Monitor believes are in the best interest of the estate and its stakeholders.

2.2 In particular, the Monitor notes the following:

- i. A proposed settlement has been reached with respect to the Indirect Purchaser Claim which had been filed in the amount of “at least” \$463.58 million. The settlement of the Indirect Purchaser Claim is a necessary pre-condition to any creditor or unitholder distributions. The proposed settlement establishes the maximum settlement amount of \$3.95 million (the “**Maximum Settlement Amount**”) and provides for the proposed Class Counsel Charge of \$200,000, resulting in a total maximum estate outlay of \$4.15 million. The proposed settlement avoids further legal costs to the Applicants to defend the claim that would, in all likelihood, have exceeded the maximum outlay under the proposed settlement. The proposed settlement also provides a mechanism for the estate to retain a portion of the Maximum Settlement Amount of \$3.95 million in certain circumstances. The proposed settlement is subject to, among other things, obtaining the Canadian Approval Order and the approval of the U.S. Bankruptcy Court;
- ii. With the assistance of the Honourable Mr. Justice Martin of this Court, a settlement has been reached which resolves all matters related to the Desert Mountain Motion, the Desert Mountain Proofs of Claim, the Purchase Option in the Arizona Lease and all remaining issues relating to Desert Mountain and its principal, Mr. Robert Nagy. The settlement, as it relates to Desert Mountain and all matters relating to the Arizona Lease, is subject to this Court’s approval;



- iii. The Ontario Court with jurisdiction over the class action against AGI that forms the basis of the Canadian Direct Purchaser Claim has approved the settlement of the class action. Thus, the Canadian Direct Purchaser Claim has been accepted as filed in the amount of CDN\$2 million;
- iv. Proposed settlements have been achieved in respect of the change of control Claims filed in the Claims Process. These settlements were achieved as a result of the Monitor's investigation and analysis of these claims and subsequent negotiations with the respective independent counsel for these Claimants;
- v. The vast majority of the Proofs of Claim in which the underlying claim is covered by insurance have been resolved; and
- vi. The Applicants' Canadian and U.S. 2012 tax returns have been filed with the appropriate taxing authorities. The CRA has formally withdrawn its "marker claim" and the Monitor is engaged in an ongoing dialogue with the IRS concerning the U.S. tax returns and the IRS "marker claim".

2.3 Given the significant progress made with respect to the Claims Process since the date of the Twelfth Report, the amount of the unresolved Proofs of Claim and other obligations of the estate, and based on the Monitor's analysis of the settlements set out above and subject to obtaining all necessary approvals for such settlements, creditors holding Proven Claims will have such Claims satisfied in full and the Monitor anticipates that there will be a distribution to unitholders. As such, during the proposed extended Stay Period, the Monitor intends to work closely with the Applicants and the Chief Process Supervisor (the "CPS") to be in a position to recommend a distribution mechanism as soon as reasonably possible. The Monitor anticipates being in a position, prior to the

expiry of the proposed extended Stay Period, to either (i) propose a distribution mechanism, or (ii) provide a proposed timeline for distribution. Among other things, U.S. Bankruptcy Court approval of the Indirect Purchaser Settlement and the resolution of any issues with the IRS will likely need to occur prior to a distribution. The proposed Stay extension date of February 7, 2014 is being requested in light of the projected timeline necessary to seek U.S. Bankruptcy Court approvals for the Indirect Purchaser Settlement.

### **3.0 TERMS OF REFERENCE**

3.1 In preparing this Thirteenth Report, the Monitor has necessarily relied upon unaudited financial and other information supplied, and representations made, by certain former senior management of Arctic Glacier (“**Senior Management**”). Although this information has been subject to review, the Monitor has not conducted an audit or otherwise attempted to verify the accuracy or completeness of any of the information of the Applicants. Accordingly, the Monitor expresses no opinion and does not provide any other form of assurance on or relating to the accuracy of any information contained in this Thirteenth Report, or otherwise used to prepare this Thirteenth Report.

3.2 Certain of the information referred to in this Thirteenth 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 Thirteenth 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.

3.3 The information contained in this Thirteenth Report is not intended to be relied upon by any investor in any transaction with the Applicants or in relation to the units of AGIF.

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

#### **4.0 THE CLAIMS PROCESS**

4.1 In this section, all capitalized terms not defined elsewhere have the meaning ascribed to them in the Claims Procedure Order.

##### **Summary of Claims Received**

4.2 The Monitor has received 83 Proofs of Claim, including the Deemed Proven Claims of the DOJ and the Direct Purchaser Claimants, and has also received 4 DO&T Proofs of Claim.

4.3 The Monitor notes that 24 of the Proofs of Claim were received after the Claims Bar Date (15 litigation Claims that appeared to be covered by insurance and 9 Claims from government agencies). Of the 24 Proofs of Claim, 3 were received since the date of the Twelfth Report and all 3 appear to be covered by insurance. Pursuant to paragraph 5 of the Claims Procedure Order, the Monitor, in its reasonable discretion, may waive strict compliance with the requirements of the Claims Procedure Order, including in respect of the time of delivery.

4.4 The Claims against the Arctic Glacier Parties received by the Monitor are summarized, by category, in the table below.

<b>THE ARCTIC GLACIER PARTIES - PROOF OF CLAIM SUMMARY</b>		
	<b>Claims Received</b>	
	<b>Claim Amount (\$000's) (note 1)</b>	<b>No. of Claims</b>
Claims from current and former management (primarily regarding Change of Control Payments)	10,203	8
Claims from current and former Board members (primarily regarding Change of Control Payments)	3,835	7
Claims from litigation claimants potentially covered by insurance	9,313	28
Claims from litigation claimants not covered by insurance	479,188	3
Claims from government agencies (excluding CRA and IRS)	2,658	24
Canada Revenue Agency marker claim	-	1
Internal Revenue Service marker claim	-	1
Indemnity claims - antitrust litigation	-	3
DOJ Deemed Proven Claim	7,032	1
Direct Purchasers' Deemed Proven Claim	10,000	1
Other Claims	25,322	6
<b>Grand Total</b>	<b>547,552</b>	<b>83</b>
Note 1 - Amounts shown are combined US\$ and CDN\$ (blended currency) and assume a US\$/CDN\$ exchange rate at par.		

4.5 Of the 83 Claims summarized in the above table, 15 Claims, in the collective amount of approximately \$281,000, have been withdrawn by the respective Claimants, as shown in the table below paragraph 4.7.

4.6 The Monitor has issued 36 Notices of Revision or Disallowance (the “**Notices of Disallowance**”). Pursuant to the Claims Procedure Order, Claimants could file a Notice of Dispute within 21 Calendar Days following deemed receipt of a Notice of Disallowance (the “**Dispute Period**”). The Dispute Period for 25 of the 36 Notices of Disallowance has expired with no Notice of Dispute having been received. Of the remaining 11 Notices of Disallowance issued, 4 are disputed, 1 was issued in respect of the Indirect Purchaser Claim and the Dispute Period has not yet expired for 6 of the Notices of Disallowance. As such, 40 of the Proofs of Claim received in the Claims Process, totalling approximately \$5.39 million, have been either withdrawn or disallowed on a final basis.

4.7 A summary of the current status of the administration of the Claims Process follows:

<b>THE ARCTIC GLACIER PARTIES - CURRENT STATUS OF CLAIM PROCESS</b>		
	<b>Claims Received</b>	
	<b>Claim Amount (\$000's) (note 1)</b>	<b>No. of Claims</b>
Deemed Proven Claims	17,032	2
Accepted Claims	2,501	4
<b>Proven Claims</b>	<b>19,533</b>	<b>6</b>
Claims withdrawn	281	15
Disallowed Claims, Dispute Period expired	5,111	25
<b>Claims Withdrawn or Disallowed on a Final Basis</b>	<b>5,392</b>	<b>40</b>
Claims entirely disallowed, Notice of Dispute received	13,972	3
Claims partially disallowed, Notice of Dispute received (note 2)	12,259	1
<b>Disputed Claims</b>	<b>26,231</b>	<b>4</b>
<b>Claims Disallowed, Dispute Period not yet expired</b>	<b>3,451</b>	<b>6</b>
Claims for which Notices of Disallowance drafted and sent to insurance adjuster for confirmation	-	2
Other Claims that appear to be covered by insurance	500	1
<b>Outstanding Insurance Claims</b>	<b>500</b>	<b>3</b>
Desert Mountain Claim - provisionally settled	12,500	1
New York State Workers' Compensation Board Claims - provisionally settled	135	2
IPP Claim - provisionally settled	463,578	1
Change of Control Claims - provisionally settled	14,038	15
<b>Claims Provisionally Settled by the Monitor</b>	<b>490,252</b>	<b>19</b>
Outstanding government Claim (subject to indemnification obligation) (note 3)	2,194	1
Indemnity Claims - antitrust litigation	-	3
IRS marker Claim	-	1
<b>Other Claims</b>	<b>2,194</b>	<b>5</b>
<b>Grand Total</b>	<b>547,552</b>	<b>83</b>
<p>Note 1 - Amounts shown are combined US\$ and CDN\$ (blended currency) and assume a US\$/CDN\$ exchange rate at par.</p> <p>Note 2 - This Claim is the Claim of Ms. Johnson who delivered a Notice of Dispute that does not provide a liquidated Claim amount and states that the amount of the Claim is "to be determined upon full disclosure". The amount of Ms. Johnson's Claim in the table above remains unchanged from the Tenth Report where it was noted that the actual Claim filed by Ms. Johnson appears to be significantly greater than the face amount set out on the Proof of Claim.</p> <p>Note 3 - The outstanding government Claim was filed by the State of California Franchise Tax Board, in the amount of approximately \$2.194 million. The former owners of certain of the Applicants' California operations acknowledged their indemnification obligations to the Applicants in respect of any amounts that may be owing in respect of this Claim. In support of the indemnity, \$100,000 is being held in escrow. The former owners are currently disputing the assessment underlying the Claim with the State of California Franchise Tax Board.</p>		

4.8 As discussed in paragraph 3.9 of the Twelfth Report, many of the Proofs of Claim received did not assert a specific dollar value and/or stated that the Claim is an estimate and is subject to revision. The Monitor continues to investigate these claims as part of its overall review. As such, the amounts of the Proofs of Claim received set out in the table above are subject to further refinement and revision.

4.9 As discussed in further detail below, the Monitor has provisionally settled two claims filed by the New York Workers' Compensation Board (together, the "**NYWCB Claims**"), the Desert Mountain Claim, the Indirect Purchaser Claim, the Board Claims and the Management Claims, all of which are defined further herein (collectively, the "**Provisionally Settled Claims**"). The following table presents a summary of the status of the administration of the Claims Process, assuming that the settlements contemplated in respect of the Provisionally Settled Claims, are finalized as anticipated.

<b>THE ARCTIC GLACIER PARTIES - STATUS OF CLAIMS ASSUMING PROVISIONAL SETTLEMENTS ARE FINALIZED</b>		
	<b>Claims Received</b>	
	<b>Claim Amount (\$000's) (note 1)</b>	<b>No. of Claims</b>
Deemed Proven Claims	17,032	2
Accepted Claims	17,463	20
<b>Proven Claims</b>	<b>34,496</b>	<b>22</b>
Claims withdrawn	-	18
Disallowed Claims, Dispute Period expired	-	25
<b>Claims Withdrawn or Disallowed on a Final Basis</b>	<b>-</b>	<b>43</b>
Claims entirely disallowed, Notice of Dispute received	13,972	3
Claims partially disallowed, Notice of Dispute received (note 2)	12,259	1
<b>Disputed Claims</b>	<b>26,231</b>	<b>4</b>
<b>Claims Disallowed, Dispute Period not yet expired</b>	<b>3,451</b>	<b>6</b>
Claims for which Notices of Disallowance drafted and sent to insurance adjuster for confirmation	-	2
Other Claims that appear to be covered by insurance	500	1
<b>Outstanding Insurance Claims</b>	<b>500</b>	<b>3</b>
Outstanding government Claim (subject to indemnification obligation) (note 3)	2,194	1
Indemnity Claims - antitrust litigation	-	3
IRS marker Claim	-	1
<b>Other Claims</b>	<b>2,194</b>	<b>5</b>
<b>Grand Total</b>	<b>66,871</b>	<b>83</b>
<p>Note 1 - Amounts shown are combined US\$ and CDN\$ (blended currency) and assume a US\$/CDN\$ exchange rate at par.</p> <p>Note 2 - This Claim is the Claim of Ms. Johnson who delivered a Notice of Dispute that does not provide a liquidated Claim amount and states that the amount of the Claim is "to be determined upon full disclosure". The amount of Ms. Johnson's Claim in the table above remains unchanged from the Tenth Report where it was noted that the actual Claim filed by Ms. Johnson appears to be significantly greater than the face amount set out on the Proof of Claim.</p> <p>Note 3 - The outstanding government Claim was filed by the State of California Franchise Tax Board, in the amount of approximately \$2.194 million. The former owners of certain of the Applicants' California operations acknowledged their indemnification obligations to the Applicants in respect of any amounts that may be owing in respect of this Claim. In support of the indemnity, \$100,000 is being held in escrow. The former owners are currently disputing the assessment underlying the Claim with the State of California Franchise Tax Board.</p>		



4.10 The provisional settlement of the Desert Mountain Motion, described in detail in paragraphs 4.39 through 4.47 of this Thirteenth Report provides that a payment will be made to Desert Mountain in the amount of \$1.25 million and that the Desert Mountain Proofs of Claim will be withdrawn from the Claims Process. Similarly, the Applicants' obligations in respect of the NYWCB Claims, as provisionally settled and discussed in detail in paragraphs 4.82 through 4.85 of this Thirteenth Report, total approximately \$15,800 and the settlement provides that the NYWCB Claims will be withdrawn from the Claims Process. Given that the Desert Mountain Proofs of Claim and the NYWCB Claims are to be withdrawn from the Claims Process, the above table does not include these settlement amounts which will be satisfied from funds held by the Monitor.

**Significant Claims**

4.11 The more significant Claims against the Arctic Glacier Parties received by the Monitor are summarized in the table below and discussed further herein.

<b>Significant Proofs of Claim Filed Against the Arctic Glacier Parties</b>	
	<b>Amount of Claim (\$000's) (Note 1)</b>
Canadian Direct Purchasers	2,000
Martin McNulty	13,610
Indirect Purchaser Claimants	463,580
Desert Mountain	12,500
Peggy Johnson (note 2)	12,259
Change of Control Claims	14,038
<b>TOTAL</b>	<b>517,987</b>
<p>Note 1 - Amounts shown are combined US\$ and CDN\$ (blended currency) and assume a US\$/CDN\$ exchange rate at par.</p> <p>Note 2 - As set out below, Ms. Johnson has delivered a Notice of Dispute that does not provide a liquidated Claim amount and states that the amount of the Claim is "to be determined upon full disclosure". The amount of Ms. Johnson's Claim in the table above remains unchanged from the Tenth Report where it was noted that the actual Claim filed by Ms. Johnson appears to be significantly greater than the face amount set out on the Proof of Claim.</p>	

*The Canadian Direct Purchaser Claim*

- 4.12 On March 7, 2013, the Court made an Order in respect of a motion brought by the Applicants for certain relief in respect of the Canadian Direct Purchaser Claim. The March 7, 2013 Order provides, among other things, that:
- i. The CPS is authorized to enter into a settlement agreement (the “**CDP Settlement Agreement**”) on behalf of AGI with respect to the pending class actions against AGI that form the basis of the Canadian Direct Purchaser Claim;
  - ii. The stay against AGI is lifted solely for the purpose of allowing the parties to take such steps as are necessary to complete the CDP Settlement Agreement; and
  - iii. Should the CDP Settlement Agreement be approved by the Ontario Superior Court of Justice where the underlying litigation was commenced (the “**Ontario Court**”), the Canadian Direct Purchaser Claim will be deemed to be accepted, as filed, in the amount of CDN\$2 million.
- 4.13 Counsel for the Canadian Retail Litigation Claimants subsequently brought the two motions before the Ontario Court necessary to complete the CDP Settlement Agreement. In order to answer inquiries from the Ontario Court as to the status of the CCAA Proceedings, counsel for the Monitor participated in such motions, which were heard on July 11, 2013 and September 6, 2013 and are described below.
- 4.14 On July 11, 2013, Justice Leitch of the Ontario Court made an Order certifying the class action as a class proceeding for settlement purposes only, setting out the notice and opt-out requirements, and ordering and declaring that the Court would hold a hearing on Friday, September 6, 2013 to decide, among other things, whether to approve the CDP

Settlement Agreement. As part of the notice plan approved by the Ontario Court, the Monitor posted a Notice of the September 6, 2013 hearing on its website in both English and French. The Monitor did not receive any inquiries from any Canadian Retail Litigation Claimant concerning the CDP Settlement Agreement or the approval hearing.

- 4.15 On September 6, 2013, the Ontario Court heard the motion to approve the CDP Settlement Agreement. Prior to the commencement of the hearing, one class member opted out of the CDP Settlement Agreement but indicated that it did not intend to bring further litigation against the Applicants. No party appeared at the September 6 hearing to oppose the approval order. The Ontario Court approved the CDP Settlement Agreement as being fair and reasonable and in the best interests of the Canadian Retail Litigation Claimants. As such, in accordance with the March 7, 2013 Order of this Court, the Canadian Direct Purchaser Claim has been deemed to be accepted in the amount of CDN\$2 million and is now considered to be a Proven Claim in accordance with the Claims Procedure Order. A copy of the Ontario Court's September 6, 2013 Order approving the CDP Settlement Agreement is attached, without schedules as **Appendix "D"**.

*Claim Submitted by Martin McNulty*

- 4.16 As set out in paragraphs 3.13 through 3.16 of the Twelfth Report, the Monitor received a Proof of Claim from Martin McNulty, a former employee of the Applicants, in the amount of \$13.61 million (the "**McNulty Claim**"). The McNulty Claim relates to outstanding litigation against the Applicants, Reddy Ice, Home City and certain former employees of the Applicants, pending in the Michigan Court.

- 4.17 In the litigation and in the McNulty Claim, Mr. McNulty alleges that AGIF, AGI, and AGII engaged in an unlawful conspiracy and enterprise with certain individuals and competing distributors of packaged ice to boycott his employment in the packaged ice industry (the tortious interference with prospective economic advantage claim). Mr. McNulty also alleges that the named Arctic Glacier Parties violated the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 et seq. (“**RICO**”), by allegedly blackballing him from finding employment in the packaged ice industry in retaliation for his cooperation with the authorities in their investigations of the industry, as well as offering Mr. McNulty bribes to stop cooperating with the government (the RICO claim).
- 4.18 As set out in paragraphs 3.14 and 3.15 of the Twelfth Report, in order to evaluate the McNulty Claim, the Monitor required access to certain information and materials subject to protective orders issued by the Michigan Court. On April 30, 2013, the Monitor’s motion to intervene in the McNulty litigation was filed, along with a joint motion of the Monitor and the Applicants to modify the necessary protective orders. On June 4, 2013, the Michigan Court granted the relief requested, such that the Monitor (and its outside counsel), any Claims Officer, the CPS, and this Court, if necessary, were and are permitted to view the information subject to protective orders in the McNulty litigation.
- 4.19 The Applicants subsequently provided to the Monitor and its counsel certain additional information that was previously subject to the protective orders. After consulting with the CPS on behalf of the Applicants, as required by the Claims Procedure Order, the Monitor issued a Notice of Disallowance with respect to the McNulty Claim on September 12,

2013. The Monitor disallowed the McNulty Claim in its entirety because the evidence available to the Monitor does not support Mr. McNulty's allegations.

4.20 On September 19, 2013, in accordance with the Claims Procedure Order, Mr. McNulty filed a Dispute Notice with the Monitor. The Dispute Notice did not provide any new or additional information with respect to the McNulty Claim.

4.21 In accordance with the Claims Procedure Order and the Claims Officer Order, the Monitor intends to explore whether a consensual resolution to the McNulty Claim can be achieved. Should a consensual resolution not be achievable in the near term, the Monitor intends to refer the dispute raised in Mr. McNulty's Notice of Dispute to a Claims Officer.

*Indirect Purchaser Claim*

4.22 As described in previous Monitor's Reports, the putative class representative for the Indirect Purchaser Claimants ("**Class Counsel**") filed the Indirect Purchaser Claim in the amount of "at least" \$463.58 million. The Indirect Purchaser Claim states that it was filed on behalf of a class of U.S. retail purchasers of packaged ice who are located in 16 different states. It is based on an alleged conspiracy between certain of the Applicants, Reddy Ice, and Home City (collectively, the "**Defendants**") with respect to market allocation.

4.23 The various putative class actions brought in and after 2008 in relation to the alleged conspiracy by indirect purchasers of packaged ice against certain of the Applicants, as well as other Defendants, were consolidated for pre-trial purposes in the multidistrict litigation ("**MDL**") captioned *In re Packaged Ice Antitrust Litig.*, No. 07-md-1952 (E.D.

Mich.). On June 1, 2009, the United States District Court for the Eastern District of Michigan, the court administering the MDL, appointed Matthew S. Wild and Max Wild as interim lead counsel and appointed John M. Perrin as liaison counsel for the putative indirect purchaser class.

- 4.24 The various class actions filed against the Applicants by direct and indirect purchasers of packaged ice stemmed from a DOJ investigation into the packaged ice industry in the United States and, in particular, certain alleged anti-competitive behaviour by the Defendants. As a result of the DOJ investigation, one of the Applicants and Home City pled guilty to a single criminal antitrust violation, along with three former employees of the Applicants. As such, the Monitor has always been aware that there was a possibility, despite the strong legal and factual arguments against the Indirect Purchaser Claim, that a Claims Officer and/or the Court may render a decision with respect to the Indirect Purchaser Claim that is adverse to the Applicants.
- 4.25 The Indirect Purchaser Claim was by far the largest and most complicated Proof of Claim filed in the Claims Process. Due to its magnitude, the Monitor has been unable to recommend a distribution to the Applicants' stakeholders until the Indirect Purchaser Claim is satisfactorily resolved.
- 4.26 The Monitor and the Applicants have been actively working to resolve the issues raised by the MDL since the commencement of the CCAA Proceedings and the Chapter 15 Proceedings. In anticipation of the filing of the Indirect Purchaser Claim, the Monitor, the Applicants, and Class Counsel agreed that the Monitor would seek a Claims Procedure Order that would provide that the Indirect Purchaser Claim could be filed on behalf of the putative class and could be pursued under United States law before a United

States lawyer who would adjudicate the claim under United States law. Paragraph 47 of the Claims Procedure Order provided that such a lawyer, experienced in United States antitrust and class-action law, would be appointed as “Special Claims Officer” to adjudicate the Indirect Purchaser Claim.

4.27 In an effort to reach an early resolution of the issues presented by the Indirect Purchaser Claim filed in the Claims Process, the Monitor, the Applicants, and Class Counsel agreed to participate in a mediation presided over by the Honorable former Justice George Adams, which took place in Toronto, Ontario over a two-day period (January 31 and February 1, 2013). Before the mediation, and in accordance with the Claims Procedure Order, the Monitor issued a comprehensive Notice of Revision or Disallowance, dated January 24, 2013, which disallowed the Indirect Purchaser Claim in its entirety. To facilitate the mediation, the Monitor agreed that the parties should focus their attention on the mediation and, thus, pursuant to paragraph 5 of the Claims Procedure Order, agreed to extend the deadline for the delivery of a Dispute Notice with respect to the Indirect Purchaser Claim to a date to be specified by the Monitor.

4.28 Despite the assistance of the Honorable Mr. Adams, the parties were unable to reach a resolution at the mediation. On February 12, 2013, the Monitor informed Class Counsel that the twenty-one day period for filing a Dispute Notice provided for in paragraph 41 of the Claims Procedure Order would commence on February 13, 2013 in respect of the Indirect Purchaser Claim. The Monitor received a Dispute Notice from Class Counsel on March 4, 2013.

4.29 As more fully described in the Twelfth Report, in order to provide the Indirect Purchaser Claimants and the Monitor with evidence and information sufficient to allow a proper

adjudication of the Indirect Purchaser Claim in the Claims Process, the Monitor, the Applicants, and Class Counsel negotiated and entered into the Stipulation by and Between the Monitor, the Debtors, and Wild Law Group Granting Partial and Limited Relief from the Automatic Stay to Proceed with Certain Discovery, dated April 22, 2013.

4.30 Subsequent to the filing of the Twelfth Report, the Monitor, the Applicants, and Class Counsel selected and appointed the Honorable Vaughn R. Walker as Special Claims Officer. Shortly after his appointment, Judge Walker approved a case management plan. However, because the parties were engaged in productive settlement negotiations, the parties sought and obtained Judge Walker's consent to suspend the case management plan until further notice.

4.31 Attached as **Appendix "E"** is a copy of the settlement agreement between the Monitor, the Applicants, and Class Counsel on behalf of the putative class (the "**Settlement Class**") of indirect purchasers of packaged ice (the "**Proposed Settlement Agreement**"). The Proposed Settlement Agreement has been executed by Class Counsel and is being held in escrow by the Monitor pending receipt of the Canadian Approval Order. The Proposed Settlement Agreement is subject to approval by the U.S. Court. If approved, the Proposed Settlement Agreement would achieve a compromise and complete settlement of the Indirect Purchaser Claim (including any other claim asserted by the Settlement Class against any of the Applicants or their former employees in the MDL).

4.32 The material terms of the Proposed Settlement Agreement are as follows:

- i. The Proposed Settlement Agreement (a) allows the Indirect Purchaser Claim as a Proven Claim in the Claims Process in an amount not to exceed the Maximum Settlement Amount of \$3.95 million, and (b) provides, subject to certain



- conditions, including this Court's entry of an Order with respect to the distribution of funds currently being held by the Monitor, for the Monitor to make a single payment in an amount not to exceed the Maximum Settlement Amount;
- ii. If this Court enters the Canadian Approval Order and the U.S. Court approves the Proposed Settlement Agreement, members of the Settlement Class who submit a properly completed "Claim Form" within the timeframe to be established by an Order of the U.S. Court will be entitled to receive cash in the amount of \$6.00 for the purchase of three to ten bags of packaged ice from one of the Defendants during the period from January 1, 2001 to March 6, 2008 (the "**Class Period**");
  - iii. To receive more than \$6.00, members of the Settlement Class must claim purchases of more than ten bags of packaged ice from one of the Defendants during the Class Period, with proof of purchase for each bag of packaged ice exceeding 10 bags;
  - iv. Holders of Approved Claims pursuant to the Proposed Settlement Agreement will receive \$6.00 for the first ten bags and \$0.60 for each additional bag. Payment amounts to individual Settlement Class members may be reduced proportionally under certain circumstances detailed in Sections 2.45 and 5.1.1(iv) of the Proposed Settlement Agreement;
  - v. In exchange for the satisfaction of the Indirect Purchaser Claim in the manner provided for in the Proposed Settlement Agreement, the Proposed Settlement Agreement provides for a comprehensive release of the Applicants and their current or former directors, officers and employees, the CPS, the Monitor and certain other parties;

- vi. In connection with the Proposed Settlement Agreement, Class Counsel intends to seek an award of “Attorneys’ Fees” not to exceed 33 1/3% of the Maximum Settlement Amount, and reimbursement of their “Attorneys’ Costs” in an amount not to exceed \$350,000. The Monitor and the Applicants have agreed that they will not oppose such a request;
- vii. The Monitor has agreed to seek the Court’s approval of the Class Counsel Charge in the amount of \$200,000 and recognition of such approval by the U.S. Court. The Monitor has agreed to seek the Class Counsel Charge in light of the extremely complex nature of the Indirect Purchaser Claim and the cross-border process before this Court and the U.S. Court required to implement the Proposed Settlement Agreement. The Monitor is seeking the Class Counsel Charge as the Monitor believes that such a charge is necessary to facilitate the Indirect Purchaser Claimants’ effective participation in the CCAA Proceedings.

The proposed Class Counsel Charge is to rank *pari passu* with the Administration Charge (as defined in the Initial Order), and shall be deemed discharged immediately upon payment of professional fees and disbursements of Class Counsel in the amount of \$200,000, which are in addition to the “Attorneys’ Fees” and “Attorneys’ Costs” (both as defined in the proposed settlement agreement) which will be paid out of the Maximum Settlement Amount of \$3.95 million; and

- viii. Additionally, Class Counsel intends to seek an Incentive Award (as defined in the Proposed Settlement Agreement) of \$1,000 for each of the 20 Named Plaintiffs (as defined in the Proposed Settlement Agreement). The Monitor and the Applicants have agreed that they will not oppose such a request.
- 4.33 To the extent that the aggregate value of claims submitted plus the Notice and Administration Costs, Incentive Awards, and Attorneys' Fees and Attorneys' Costs is less than the Maximum Settlement Amount, the Monitor will be entitled to retain the difference on behalf of the Applicants and distribute such amounts to the Applicants' stakeholders in accordance with a future distribution Order of the Court.
- 4.34 The Monitor, in its capacity as Foreign Representative of the Applicants, together with the Applicants and Class Counsel, will (should this Court enter the Canadian Approval Order) seek the U.S. Court's approval of the Proposed Settlement Agreement. Pursuant to U.S. procedural law applicable to the Proposed Settlement Agreement and the settlement of the Indirect Purchaser Claim, U.S. Court approval will require two hearings before Judge Gross. The first hearing is currently scheduled for November 18, 2013 at 2:00 p.m. The second hearing has not yet been scheduled, but it is anticipated (subject to U.S. Court availability) that such hearing will occur in late January or early February 2014 should the Canadian Approval Order and U.S. Preliminary Approvals Order be granted. Should the U.S. Court approve the Proposed Settlement Agreement on a final basis, in the currently projected timeframe, it is anticipated that the claims process for Settlement Class members will conclude during the second quarter of 2014.
- 4.35 In connection with the claims process contemplated by the Proposed Settlement Agreement, the Monitor sought three proposals from firms that provide claims

administration services. After discussions and negotiations with the potential claims administrators, the Monitor selected UpShot Services LLC (“UpShot”). Pursuant to the Proposed Settlement Agreement, the Monitor, together with the Applicants and Class Counsel, will be seeking U.S. Court approval of the Monitor’s retention of UpShot. UpShot’s capped proposal represented the lowest and best proposal to perform the role of Claims Administrator under the Proposed Settlement Agreement and provides the Monitor with sufficient certainty that the Notice and Administration Costs will not exceed a capped amount. Not only was UpShot’s proposal capped in terms of total cost, but, unlike one of the other proposals, did not include a minimum “start-up” fee. Further, UpShot’s personnel are familiar with the Applicants’ insolvency proceedings and the Monitor is of the view that UpShot will perform the duties required by the Proposed Settlement Agreement in a cost-effective and efficient manner.

4.36 The Proposed Settlement Agreement is the result of several months of vigorous and protracted, arms’-length negotiations between the Monitor, the Applicants and Class Counsel, and the Monitor believes that it represents a fair and reasonable resolution of the Indirect Purchaser Claim. The Monitor has been in regular contact, through discussions and meetings, with the Applicants’ U.S. antitrust counsel and is of the view that the total consideration to be given in exchange for the full and final resolution of the Indirect Purchaser Claim is less than the amount that the Monitor and the Applicants would expend in litigating the Indirect Purchaser Claim before the Special Claims Officer. This view is shared by the Monitor’s independent U.S. antitrust counsel. Additionally, the Proposed Settlement Agreement provides a degree of certainty with respect to costs and

timing that cannot be achieved through continuing litigation before the Special Claims Officer which was estimated to last at least several more years.

4.37 Due to the significant and uncertain quantum of the Indirect Purchaser Claim as filed, no distribution can be made to any holders of Proven Claims absent the implementation of the Proposed Settlement Agreement. Accordingly, the Monitor believes that consummation of the Proposed Settlement Agreement is in the best interests of the Applicants, their Creditors, and other stakeholders and will allow the Monitor to distribute the funds it holds in a more timely manner than if the matter was litigated before the Special Claims Officer and then through any appellate process.

4.38 For the reasons set out herein, the Monitor recommends that the Court issue the Canadian Approval Order to facilitate the implementation of the Proposed Settlement Agreement, including, among other things: (i) an Order authorizing the CPS and the Monitor to execute the Proposed Settlement Agreement, and (ii) the granting of the Class Counsel Charge.

*The Desert Mountain Claim*

4.39 As described in previous Monitor's Reports, Desert Mountain is the Applicants' former landlord for a facility located in Tolleson, Arizona. The principal of Desert Mountain, Mr. Robert Nagy, is the former Chief Executive Officer of AGI and a former trustee of AGIF.

4.40 Desert Mountain has submitted a Proof of Claim and a DO&T Proof of Claim in the Claims Process (collectively, the "**Desert Mountain Proofs of Claim**"). The Desert Mountain Proofs of Claim seek payment of \$12.5 million, plus certain other amounts,

pursuant to a purchase option contained in the Arizona Lease (the “**Purchase Option**”). Desert Mountain also filed and served a notice of motion dated October 15, 2012, seeking payment of the Purchase Option from either the Purchaser and/or the Applicants (the “**Desert Mountain Motion**”). The Monitor’s Ninth Report deals with the Desert Mountain Proofs of Claim, the Desert Mountain Motion, the Purchase Option and the Arizona Lease.

4.41 In addition to the Desert Mountain Proofs of Claim and the Desert Mountain Motion, Mr. Nagy filed a personal claim in the Claims Process (the “**Nagy Proof of Claim**”). While certain aspects of the Nagy Proof of Claim relate to the Arizona Lease, others do not. In particular, the Nagy Proof of Claim included a claim for \$500,000 in respect of Mr. Nagy’s personal guarantee of the Arizona Lease and a claim for \$48,000 in respect of a life insurance policy related to the Arizona Lease (collectively, as to those amounts only, the “**Guarantee Proof of Claim**”).

4.42 The parties to the Desert Mountain Motion and the Monitor attended a Judicially Assisted Dispute Resolution conference before the Honourable Mr. Justice Martin on June 19, 2013. Subject to the approval of this Court, a resolution of the Desert Mountain Proofs of Claim, the Desert Mountain Motion, the Guarantee Proof of Claim and all issues related to the Purchase Option and the Arizona Lease was achieved as between the Applicants, the Monitor, Desert Mountain and Mr. Nagy (the “**Desert Mountain Settlement**”).

4.43 In addition to the Desert Mountain Settlement, and in light of the nature of the Nagy Proof of Claim, the Applicants, the Monitor and Mr. Nagy agreed to work together to attempt to resolve the remaining aspects of the Nagy Proof of Claim which dealt with a retirement benefit owed to Mr. Nagy and the cost to replace other post-retirement benefits

previously provided to Mr. Nagy (the “**Nagy Personal Claim**”). Although not subject to Court approval, the Monitor is also pleased to report that a settlement of the entirety of the Nagy Proof of Claim, including the Nagy Personal Claim, has also been reached pursuant to the terms of the Claims Procedure Order. A copy of the Minutes of Settlement executed by counsel to the Applicants, counsel to Desert Mountain and Mr. Nagy, and counsel to the Monitor is attached as **Appendix “F”**.

4.44 The material terms of the Desert Mountain Settlement are as follows:

- i. Payment will be made from the monies currently being held by the Monitor to counsel for Desert Mountain in trust in the amount of \$1,250,000 (the “**Desert Mountain Settlement Amount**”) within 7 business days of Court approval of the Desert Mountain Settlement. Counsel for Desert Mountain will hold the Desert Mountain Settlement Amount in trust until it can be released pursuant to the terms of the Desert Mountain Settlement;
- ii. Desert Mountain, Mr. Nagy, the Applicants and the Monitor shall exchange mutual releases in a form satisfactory to each party, whereby each party shall release any and all matters that were raised in the Desert Mountain Motion, the Desert Mountain Proofs of Claim and the Guarantee Proof of Claim; and
- iii. Upon the making of the payment of the Desert Mountain Settlement Amount and the exchange of certain of the mutual releases: (a) the Desert Mountain Motion shall be and be deemed to be abandoned with prejudice and without costs to any party. The Desert Mountain Settlement is conditional upon an Order of the Court being obtained, on notice to the Service List maintained for the CCAA Proceedings, providing for the abandonment of the Desert Mountain Motion with

prejudice and without costs to any party; (b) the Desert Mountain Proofs of Claim and the Guarantee Proof of Claim shall be deemed to be automatically withdrawn from the Claims Process without the need for any further act or formality; and (c) Desert Mountain shall immediately take all steps necessary to dismiss, with prejudice and without costs to any party, its appeal of the Order of the U.S. Bankruptcy Court dated July 17, 2012, recognizing the Amended and Restated Approval and Vesting Order of the Court dated July 12, 2012 (the “**U.S. Sale Recognition Order**”).

4.45 The Desert Mountain Settlement was reached after lengthy without prejudice negotiations between the Applicants, the Monitor and Desert Mountain, who benefitted from the assistance of the Honourable Mr. Justice Martin. The Desert Mountain Settlement avoids the continuation of prolonged litigation as part of these CCAA Proceedings. To date, in that litigation, Desert Mountain, the Applicants and the Purchaser have delivered voluminous affidavits in respect of the Desert Mountain Motion and numerous documents were produced by the parties. Cross-examinations of Mr. Nagy, the CPS and a principal of the Purchaser were conducted and the parties delivered extensive Motion Briefs to the Court. If the Desert Mountain Settlement is completed, the parties will avoid the expense of a four-day hearing before the Honourable Mr. Justice Dewar from December 2-5, 2013 and any appeal that might have followed that hearing.

4.46 It is the Monitor’s view that the Desert Mountain Settlement is in the best interests of the Applicants and all of their stakeholders. In the Ninth Report, the Monitor commented on the positions being put forward by the parties to the Desert Mountain Motion. The Monitor provided its view that (a) the Approval and Vesting Order, as a final order of the



Court that has not been appealed, should stand, and (b) should the Purchase Option be payable, the APA with the Purchaser was intended to fully protect the Applicants' estate in such a scenario. The Monitor notes that the Purchaser is not contributing to the Desert Mountain Settlement Amount, however recommends that this Honourable Court approve the Desert Mountain Settlement for the reasons set out below:

- i. The Desert Mountain Settlement includes a settlement of all matters relating to the Desert Mountain Motion, the Desert Mountain Proofs of Claim, the Guarantee Proof of Claim and the Arizona Lease. The parties have also agreed to settle the Nagy Personal Claim as reflected in the Minutes of Settlement;
- ii. The Desert Mountain Settlement will result in the estate not having to incur additional legal costs and will create certainty going forward. In addition, the parties to the Desert Mountain Settlement will be responsible for their own legal costs. The Desert Mountain Motion is scheduled for a four-day hearing before this Court from December 2-5, 2013. Based on the nature of the Desert Mountain litigation to date, the Monitor believes that the losing party would likely seek leave to appeal any decision of this Court on the Desert Mountain Motion to the Manitoba Court of Appeal, resulting in further costs and delay;
- iii. The Desert Mountain Settlement Amount represents 10% of the amount of the Purchase Option being claimed by Desert Mountain. Although the Monitor's view is that the deemed Purchase Option should not be payable by the Applicants, the Monitor is aware that Desert Mountain and the Purchaser take a different view of the Applicants' legal obligation with respect to the payment, and there was a risk that the Applicants would not be successful in the litigation and would be

required to pay the full \$12.5 million. It is the Monitor's view that a compromise at 10% of the payment claimed in the Desert Mountain Motion largely reflects that risk and is reasonable;

- iv. Mr. Nagy has agreed to withdraw the Guarantee Proof of Claim as part of the Desert Mountain Settlement which was filed in the aggregate of \$548,000 and may have been required to be accepted as a Proven Claim in the Claims Process;
- v. Desert Mountain has agreed to withdraw its appeal of the U.S. Sale Recognition Order. As such, the Monitor and the Applicants will no longer have to expend estate resources to deal with the appeal and any potential ramifications from the appeal; and
- vi. The Desert Mountain Settlement will resolve the Proof of Claim and the DO&T Proof of Claim filed by Desert Mountain. There was no guarantee that the motion scheduled for December 2013 would have resolved all issues relating to the Desert Mountain Proof of Claim. In addition, there was a real possibility that even if the Applicants were successful in the Desert Mountain Motion, these issues would have also needed to be dealt with in the context of the DO&T Proof of Claim, and it was likely that the Applicants would have been required to indemnify the relevant directors, officers and trustees for any loss to Desert Mountain as a result of the relevant indemnity arrangements.

4.47 The Monitor is of the view that the Desert Mountain Settlement resolves a significant group of interrelated issues and potential liability with respect to the Applicants' estate at a reasonable cost when compared to the potential exposure. The Desert Mountain Settlement will also result in the avoidance of additional legal costs with respect to the

Arizona Lease and provides certainty to the Applicants' estate. As such, for the reasons set out herein, the Monitor recommends that the Court issue an Order (i) approving the Desert Mountain Settlement, and (ii) providing that the Desert Mountain Motion shall be abandoned with prejudice and without costs to any party once the terms of the Desert Mountain Settlement are met.

*Claim Submitted by Peggy Johnson*

- 4.48 The Monitor provided a description of the three separate but interrelated components of the Claim filed by Peggy Johnson (the “**Johnson Claim**”) at paragraph 3.30 of the Tenth Report of the Monitor dated March 5, 2013 (the “**Tenth Report**”). As set out in the Tenth Report, the Johnson Claim is for (i) royalties allegedly owing in respect of sales by the Applicants of certain products sold under the trade name “Arctic Glacier” for the years 2000 to 2012 inclusive, (ii) approximately CDN\$10.5 million in respect of the alleged termination of a royalty agreement, and (iii) CDN\$500,000 in relation to the alleged extinguishment of a license, all plus interest.
- 4.49 On April 12, 2013, after consulting with the CPS on behalf of the Applicants as required by the Claims Procedure Order, the Monitor issued a Notice of Disallowance with respect to the Johnson Claim. The Monitor revised the Johnson Claim to \$33,958.30, solely in relation to the Claim for royalties described above. The Monitor entirely disallowed the components of the Johnson Claim related to the purported termination of a royalty agreement and the alleged extinguishment of a license.
- 4.50 On May 2, 2013, in accordance with the Claims Procedure Order, Ms. Johnson provided a Dispute Notice in response to the Monitor's Notice of Disallowance. In the Notice of Dispute, Ms. Johnson provided additional information in support of her Claim that the

Monitor subsequently reviewed with the Applicants. In addition, the Notice of Dispute states that the amount of the Johnson Claim is “to be determined upon full disclosure”.

- 4.51 The primary issue set out in the Proof of Claim, Notice of Disallowance and Notice of Dispute in respect of the Johnson Claim appears to be whether any retail royalties are payable to Ms. Johnson in relation to the sale of packaged ice by the Applicants. The Monitor and the Applicants are of the view that any retail royalties are only payable to Ms. Johnson on sales of bottled water. Ms. Johnson is of the view that retail royalties are payable on both sales of bottled water and sales of packaged ice.
- 4.52 In accordance with the Claims Procedure Order and the Claims Officer Order, since the date of the Twelfth Report, the Monitor explored whether a consensual resolution to the Johnson Claim could be achieved. No resolution has been reached.
- 4.53 As such, the Monitor, in consultation with the Applicants and Ms. Johnson’s counsel, concluded that the dispute raised in the Dispute Notice was not settled within a satisfactory time period or in satisfactory manner. In accordance with the Claims Officer Order, on August 19, 2013, the Monitor referred the Johnson Claim to Claims Officer the Honourable Jack Ground for adjudication.
- 4.54 On September 17, 2013, the Monitor and counsel for the Monitor, the Applicants and Ms. Johnson participated in a telephonic case conference before Claims Officer Ground to discuss setting a procedure for the adjudication of the dispute. The Monitor intends to work with counsel for the Applicants and Ms. Johnson to develop an agreed-upon case management procedure. A further telephonic case conference has been set before Claims Officer Ground for November 22, 2013.

*Claims Arising from a Change of Control of AGI*

Management Claims

- 4.55 Eight former Senior Management employees of the Applicants (the “**Management Claimants**”) filed Claims in the Claims Process (the “**Management Claims**”) totalling approximately \$10.2 million. These Claims are predominantly for change of control payments set out in the Management Claimants’ employment agreements with AGI (the “**Management Change of Control Payments**”).
- 4.56 The employment agreements of the Management Claimants define a “change of control” to be, among other things, the sale by AGI of greater than 50% of its worldwide operations on a consolidated basis within any continuous six-month period. The Management Claimants contend that the Sale Transaction gave rise to a change of control for the purposes of these agreements.
- 4.57 The employment agreements for seven of the eight Management Claimants (collectively, the “**Management Change of Control Claimants**”) contain two provisions: a “Change of Control Provision” and a “Termination Change of Control Provision”. These provisions give rise to the Claims of the Management Change of Control Claimants and are described as follows:
- i. The Change of Control Provision: in the event of, and immediately upon, a change of control, AGI shall pay each of the Management Change of Control Claimants an amount equal to a multiple (either 100%, 300% or 400%, depending upon the respective Claimant) of that employee’s salary, plus maximum bonus

entitlement and benefits, if any received during the twelve months immediately prior to the change of control.

- ii. The Termination Change of Control Provision: if AGI, within two years immediately following a change of control, terminates that employee's employment, immediately following such termination, AGI shall pay, in addition to the amount described in (a) above, an amount equal to a multiple (either 50% or 100%, depending upon the respective Management Claimant) of that employee's annual salary, plus maximum bonus entitlement and benefits, if any, received during the twelve months immediately prior to the change of control.

4.58 Pursuant to the provisions of the KERP agreements, the Claims filed by the Management Change of Control Claimants properly reflect a reduction by the amounts of the KERP payments each of them received.

4.59 All of the Management Change of Control Claimants were offered and accepted employment with the Purchaser.

4.60 The employment agreement of the remaining Management Claimant (the "**Additional Claimant**") differs from the others in that it does not contain a Change of Control Provision, and the Termination Change of Control Provision provides that:

If, within one year immediately following a change of control of AGI, AGI terminates that employee's employment, AGI shall pay an amount to that employee equal to 300% of that employee's annual salary, plus maximum bonus entitlement, plus benefits.

### Board Claims

- 4.61 In addition to the Management Claims, six claims totalling approximately \$2.4 million (the “**Board Claims**”) were filed by current Directors of AGI and/or Trustees of AGIF, as well as the Corporate Secretary of the Applicants (collectively, the “**Board Claimants**”). These Claims are also predominantly for change of control payments (the “**Board Change of Control Payments**”).

### The Monitor’s Analysis of the Management Claims

- 4.62 The Monitor has conducted a thorough review of the Management Claims and the Board Claims and has reviewed certain additional supporting documentation provided by the Applicants. This additional information includes minutes from joint meetings of the Compensation Committees of AGIF and AGI, minutes from joint meetings of the Board of Trustees of AGIF and the Board of Directors of AGI held during the period January 2006 to July 2012, inclusive, certain information packages provided to Trustees and Board members in advance of meetings, certain reports and other documents referenced in the minutes, payroll records, the Board members’ manual and various email communications. The Monitor attended at the offices of the Corporate Secretary of the Applicants to review and discuss additional documentation provided by the Applicants. The Monitor has also reviewed certain annual information circulars and annual reports of AGIF, and has consulted with an executive compensation expert at the Monitor’s legal counsel in respect of both the Board Claims and the Management Claims.
- 4.63 The Monitor notes the following in respect of the Management Claims:

- The Management Claimants all provided executed employment contracts with AGI that provide for Management Change of Control Payments in certain circumstances;
- The Monitor is of the view that the Closing of the Sale Transaction constituted a change of control pursuant to the employment contracts;
- The existence of and calculation with respect to Management Change of Control Payments were disclosed in the Applicants' annual information circulars and annual reports;
- With respect to the portions of the Management Claims that are based on the Termination Change of Control Provision, the Monitor notes that the Management Change of Control Claimants may not have been actually terminated as a result of the Closing of the Sale Transaction. Such Claimants were not formally terminated by AGI; rather, they accepted employment with the Purchaser and continued to carry out the same duties, in the same position, and at the same location, immediately following the Closing of the Sale Transaction as they did previously. Counsel for the Management Change of Control Claimants informed the Monitor that such Claimants disagree with any assertion that the Termination Change of Control Provision does not apply;
- The Additional Claimant was terminated by AGI immediately prior to the Closing of the Sale Transaction. However, the Additional Claimant contends that his termination occurred after a change of control and has raised other issues with respect to his termination;



- While the compensation expert with whom the Monitor consulted in respect of the Management Claims is of the view that the quantum of the change of control multiples are higher than would be typical for these types of claims in the current market environment, change of control payments to senior management are not uncommon;
- The Management Claimants played an important role in the restructuring of the Applicants' business, and in doing so, assisted in achieving the going concern outcome of the Sale Transaction; and
- Certain of these Claimants also continued to assist the Monitor, pursuant to the provisions of the Transition Services Agreement, following the Closing of the Sale Transaction.

4.64 Following lengthy, without prejudice negotiations between the Monitor and counsel for the Management Change of Control Claimants, a resolution to the Management Change of Control Claims has been achieved, resulting in the Management Change of Control Claimants resubmitting their Proofs of Claim to reflect a 20% to 50% reduction to the portion of their original Claims based on the Termination Change of Control Provisions. In addition, the Monitor reached a resolution of the Additional Claimant's Claim whereby the Additional Claimant has agreed to a reduction of 20% to his Claim.

4.65 A summary of the Management Claims and the proposed resolution recommended by the Monitor (the "**Revised Management Change of Control Claims**") is as follows:

<b>THE ARCTIC GLACIER PARTIES</b>			
<b>Management Claims</b>			
	<b>Amount of Claim (\$)</b>	<b>Revised Amount of Claim (\$)</b>	<b>Reduction to Claim (\$)</b>
Chief Executive Officer ("CEO")	3,652,014	3,147,769	504,245
Chief Financial Officer ("CFO")	2,805,370	2,444,072	361,298
Executive Vice President, Operations	2,027,223	1,739,552	287,671
Vice President, Acquisitions & Integration	683,097	546,478	136,619
Vice President, Accounting and Corporate Controller	373,052	321,178	51,874
Vice President, Human Resources & Administration	252,944	219,731	33,213
Director of Finance	192,637	166,663	25,974
Director, Information Technology	216,902	193,000	23,902
<b>TOTAL</b>	<b>10,203,239</b>	<b>8,778,443</b>	<b>1,424,796</b>

Note: The Management Claims, as filed, included an amount in respect of interest which, as stated in previous reports, the Monitor will deal with at the time of a proposed distribution. In addition, the claims filed by the CEO and the CFO included claims for certain reimbursable legal fees which were paid in the ordinary course. Accordingly, the settled amounts of the Management Claims exclude interest and legal fees.

#### The Monitor's Analysis of the Board Claims

4.66 The Monitor notes the following in respect of the Board Claims:

- The Board Change of Control Payments were initially agreed to as set out in the minutes of the joint meeting of the Compensation Committees of AGI and AGIF held on October 12, 2005. Unlike the Management Claims, there are no formal, written contracts in respect of the Board Claims. These amounts were subsequently increased, as provided for in the minutes of the joint meeting of the Compensation Committees of AGI and AGIF held on November 27, 2006;
- The Board Change of Control Payments were disclosed in the AGIF annual information circulars and annual reports;

- The Board Claimants remained actively and continuously engaged throughout the period prior to and during the CCAA Proceedings. Under their stewardship, the Applicants completed the Sale Transaction for the benefit of the stakeholders; and
- The compensation expert with whom the Monitor consulted in respect of the Board Claims advised the Monitor that he is unaware of any change of control payments or amounts similar in nature being granted to members of any other Canadian board of directors.

4.67 In respect of the increase to the quantum of the Board Claims provided for in the November 27, 2006 minutes referred to above, the Monitor reviewed an email dated November 22, 2006 from the Corporate Secretary to the members of the Compensation Committees of AGI and AGIF which provided the rationale for the increase. The email discusses the pressures being felt by income trusts at the time, given the uncertainty in the market at the time caused by the Canadian federal government's tax initiatives announced in respect of income trusts. The email references the importance of ensuring that members of Senior Management, senior officers and Board members, particularly given the small number of Board members, were adequately supported and given proper incentives to deal with the uncertainty of operating an income trust.

4.68 The Board Claimants, cognizant of the Monitor's observations noted above, and following without prejudice discussions between the Monitor and the Board Claimants' independent counsel, have agreed (contingent on the Monitor's acceptance and approval of the revised Proofs of Claim described below and on no application having been brought under paragraph 4.71 below) to accept amounts equal to two-thirds of the change of control payments to which the Board Claimants believe they are entitled. Under the

resolution recommended by the Monitor, the Board Claimants will be filing revised Proofs of Claim for these reduced amounts, which total approximately \$1.54 million (the “**Revised Board Claims**”). The Board Claimants will also continue to maintain their Claims for indemnity and for meeting (and other) fees in the event that those fees are not paid in the ordinary course consistent with past practice, as described in the existing Proofs of Claim – either those existing Proofs of Claim will continue to be in effect in respect of such matters, or the Claims for indemnity and fees will be maintained in the Revised Board Claims.

Monitor’s Recommended Treatment of the Management Claims and the Board Claims

4.69 The Monitor believes that the Revised Management Change of Control Claims and the Revised Board Claims:

- are in the best interests of the Applicants and their stakeholders;
- will eliminate the potential for protracted litigation and the associated legal costs;
- will assist in providing certainty for the estate going forward; and
- reflect the Monitor’s assessment of the merits of these Claims.

4.70 In previous reports, the Monitor advised that it intended to file a separate report with this Honourable Court that would include the Monitor’s comprehensive analysis of the Management Claims and the Board Claims and the Monitor’s conclusions in respect of same. This portion of this Thirteenth Report constitutes that report.

4.71 Although the Monitor, in consultation with the Applicants, has the ability to accept, revise or disallow Claims pursuant to the Claims Procedure Order, in light of the nature of these Claims and the inquiries made by unitholders, the Monitor believes that it is

appropriate to disclose its proposed resolution of these Claims prior to accepting the Claims in the revised amounts on a final basis. Unless, by October 30, 2013, any stakeholder of the Applicants seeks formal relief from the Court by filing with the Court and serving on the Service List an application and supporting materials objecting to the Monitor's recommended treatment of the Management Claims and the Board Claims and setting out the basis for such objection, the Monitor intends to accept the Revised Management Change of Control Claims, the Revised Additional Claimant's Claim and the Revised Board Claims, as described.

#### **Claims Submitted by the CRA and the IRS**

- 4.72 As set out in the Tenth Report, the CRA and the IRS filed "marker claims" in the Claims Process, which were to be quantified pending the completion and filing of the Applicants' 2012 tax returns.
- 4.73 The Monitor's Eleventh Report to Court, dated March 27, 2013 (the "**Eleventh Report**") dealt with tax-related matters and advised, among other things, that the Canadian trust return for AGIF was filed on March 31, 2013; there were no resultant taxes payable by AGIF.
- 4.74 On June 28, 2013, the Canadian 2012 corporate tax return for AGI was filed and the resultant federal and provincial taxes payable totalling approximately \$703,000 were paid by the Monitor, on behalf of AGI.
- 4.75 After the CRA filed its marker claim, the Monitor had several discussions with various parties at the CRA with respect to the Claims Process and the Applicants' Canadian tax returns. After the Canadian tax returns were filed, the Monitor followed up with the

CRA's local office in Winnipeg to discuss such returns and to respond to any enquiries. Thereafter, the Monitor contacted the individual at the CRA who filed the marker claim and discussed the resolution of the CRA's claim. On August 15, 2013, the CRA withdrew its claim from the Claims Process.

- 4.76 As described in the Eleventh Report, on March 15, 2013, the Monitor filed requests for extensions to file the Applicants' U.S. corporate tax returns (the "**U.S. Tax Extensions**"), which extended the deadline to file such tax returns to September 15, 2013. For the U.S. Tax Extensions to be valid, 90% of the Applicants' tax obligations for the 2012 tax year were also required to be paid by March 15, 2013. Accordingly, on behalf of the Applicants, the Monitor remitted payments to the U.S. federal and various state taxing authorities, as appropriate, totalling approximately \$9.3 million. These payments were based on estimated calculations of the Applicants' U.S. tax obligations for 2012 provided to the Monitor by KPMG, which based its estimates on the information available to the Monitor at the time, which was largely comprised of preliminary information provided by the Applicants' former employees, now working for the Purchaser and preliminary estimates of certain other figures upon which the tax estimates were based. At that time, KPMG estimated the Applicants' combined U.S. tax obligations to be approximately \$7.9 million (the "**U.S. Tax Estimate**"). The actual payments made by the Monitor were made after consultation with KPMG and the Applicants and were higher than the U.S. Tax Estimate due to the preliminary nature of the U.S. Tax Estimate.
- 4.77 On August 29, 2013, the U.S. 2012 federal corporate tax return (the "**U.S. Federal Return**") was filed. The U.S. Federal Return reflected a loss for tax purposes, with no U.S. federal taxes payable.

- 4.78 The U.S. 2012 state corporate tax returns (the “**U.S. State Returns**”) were filed on August 26, August 29 and September 4, 2013. The U.S. State Returns resulted in total taxes payable of approximately \$1.13 million, which have been paid by the Monitor, on behalf of the Applicants.
- 4.79 The actual U.S. corporate taxes payable are lower than the U.S Tax Estimate due to the preliminary nature of the U.S. Tax Estimate, which did not reflect information that was subsequently provided to the Monitor and KPMG by the former employees of the Applicants, now working for the Purchaser, or certain refinements to the expense allocation among the entities. The Monitor notes that the U.S. Tax Estimate was also made prior to the completion of the valuation work described in the Eleventh Report.
- 4.80 The tax returns filed reflect refunds owing to the Applicants of approximately \$8.28 million (\$6 million in respect of U.S. federal taxes and approximately \$2.28 million in respect of U.S. state taxes). The Monitor has received state tax refunds as of September 30, 2013 of approximately \$543,000, and on October 2, 2013, received a refund of approximately \$6 million in respect of the U.S. federal taxes (the “**U.S. Federal Tax Refund**”).
- 4.81 Since the filing of the U.S. Federal Return, the Monitor has been in communication with the IRS and has been informed that the IRS is reviewing the U.S. Federal Return. The Monitor intends to engage in an ongoing dialogue with the IRS in order to resolve its marker claim.

### The NYWCB Claims

- 4.82 The NYWCB Claims were filed against the Applicants Diamond Ice Cube Co. Inc. (“**Diamond Ice**”) and Arctic Glacier New York Inc., as successor by merger with Springdale Ice Co. Inc. (“**Springdale Ice**”), in the amounts of \$23,845 and \$111,636, respectively, representing amounts for claims by the New York Workers’ Compensation Board (the “**NYWCB**”) for alleged trust deficiencies relating to a group workers compensation liability trust in which each of Diamond Ice and Springdale Ice participated. The NYWCB, Diamond Ice, Springdale Ice and certain other participants in the trust entered into agreements pursuant to which the participants agreed to make payments toward their potential liability, the statute of limitations was tolled and the NYWCB deferred initiating formal proceedings against the participants while the amount of the trust deficiency was calculated.
- 4.83 During the CCAA Proceedings, the Applicants, with the support of the Monitor, continued to pay their obligations under the agreements with the NYWCB in the ordinary course. Pursuant to indemnity arrangements with the former owners of Diamond Ice and Springdale Ice, such former owners reimbursed the Applicants for a portion of the payments they made to the NYWCB as a portion of those payments related to the period prior to the purchase of these companies by the Applicants.
- 4.84 The provisional settlements made between Diamond Ice and Springdale Ice and the NYWCB provide for payments to the NYWCB of \$14,361 and \$69,658, respectively. The former owners’ contribution to these settlement amounts is \$11,390 and \$56,881, respectively, which amounts have already been sent to the Monitor.



4.85 As part of the settlement, the NYWCB agreed to provide a release and as part of that release, agreed to withdraw the NYWCB Claims. The parties recently executed the settlement agreement. The Monitor will be completing the settlement by making the required payments and receiving the executed release.

### **Insurance Matters**

4.86 The Claims Procedure Order provides that Claims covered by the Applicants' insurance policies, or for which payment is made through the Applicants' insurance policies, shall not be recoverable against the Applicants or the Directors, Officers or Trustees in the Claims Process.

4.87 To date, 28 Proofs of Claim totalling approximately \$9.3 million have been filed by Claimants who were sent Proof of Claim Document Packages based on information provided to the Monitor by the Applicants' insurance broker or insurers. Of these Claims, 20 have been withdrawn or disallowed on a final basis. Four additional Notices of Disallowance have been sent to Claimants denying their claims on the basis that they are covered by insurance. The Dispute Period has yet to expire in respect of these four Notices. One Dispute Notice was received in respect of a Notice of Disallowance.

4.88 In addition, based on discussions with the relevant insurance adjusters, the Monitor intends to issue Notices of Disallowance to disallow a further 2 of these Claims (which did not specify an amount on the Proof of Claim), which the Monitor understands are covered by insurance. The Monitor has provided these two Notices of Disallowance to the respective insurance adjusters for review and is awaiting comments from the adjusters prior to finalizing and sending out these Notices of Disallowance to the respective Claimants. The remaining Claim in this category also appears to be covered by insurance

and therefore excluded from the Claims Process pursuant to the terms of the Claims Procedure Order. The Monitor is in the process of seeking confirmation from the Applicants' insurers that this Proof of Claim is covered by insurance and, once obtained, will respond to the Claimant pursuant to the terms of the Claims Procedure Order.

4.89 As previously reported, the Monitor has communicated with the Applicants' insurance broker with respect to establishing an insurance deductible reserve to ensure that the run-off of any litigation covered by insurance does not impede the timing of distributions from the estate. The Monitor intends to finalize the insurance deductible reserve during the proposed extended Stay period.

4.90 The Applicants are party to numerous ongoing litigation matters covered by insurance, mainly comprised of personal injury, workers' compensation and automobile accident claims. As the former employees of the Applicants who primarily dealt with litigation matters are now employed by the Purchaser, the Monitor has taken steps to ensure that the Applicants' insurers are being provided with the information required to deal with insured claims outside of the Claims Process.

4.91 In addition, the Monitor has received numerous requests from U.S. insurance claimants for consent to lift the automatic stay imposed by the U.S. Bankruptcy Code to allow their claims to proceed solely against the Applicants' insurance policies and several lift stay requests have been granted by the U.S. Bankruptcy Court. The Monitor and its U.S. counsel expect to process further lift-stay requests in the coming months.

## 5.0 OTHER ESTATE MATTERS

### The Reconciliation

- 5.1 In its Eighth Report, the Monitor advised that, in addition to the reconciliation of the Applicants' bank accounts, a number of other post-Closing items had given rise to balances owed as between the Purchaser and the Vendors. The Monitor therefore prepared a detailed schedule of the various outstanding items (the "**Reconciliation**").
- 5.2 The Monitor had extensive communications with the Purchaser and its legal counsel to obtain supporting documentation in respect of, and to discuss and resolve the various matters included in, the Reconciliation. The Monitor, the Purchaser and their respective legal counsel have now resolved all outstanding matters related to the Reconciliation and have finalized the Reconciliation, which resulted in an amount owing by the Applicants to the Purchaser of approximately \$92,000. The Monitor, on behalf of the Applicants, remitted this payment to the Purchaser on August 20, 2013.

### The Proposed Plan of Arrangement

- 5.3 The Twelfth Report described potential indicative terms for a plan of arrangement for the Applicants. As a result of the compromises and settlements obtained with respect to certain significant Claims filed in the Claims Process, it may be possible to streamline the process to distribute the monies currently being held by the Monitor to the Applicants' stakeholders, whether through a plan of arrangement or otherwise. In addition, based on discussions over the last several months between the CPS and/or the Monitor and certain unitholders, it appears that the majority of unitholders that have contacted the Monitor or the CPS would prefer to see a distribution mechanism that results in a payment on

account of their equity position as soon as possible, as opposed to attempting to continue their investment with a reconstituted AGIF.

- 5.4 As a result, during the proposed extended Stay period, the Monitor intends to continue to work with the CPS, the Applicants and the Applicants' tax advisor, KPMG, to develop a distribution mechanism to propose to this Honourable Court and the Applicants' stakeholders. As set out above, the proposed Stay extension period was chosen to allow the time necessary to seek U.S. Bankruptcy Court approval of the Indirect Purchaser Settlement. If such approval is obtained in a timely manner, the Monitor anticipates being in a position, prior to the expiry of the proposed extended Stay Period, to either (i) propose a distribution mechanism or (ii) provide a proposed timeline for distribution.

## **6.0 RECEIPTS AND DISBURSEMENTS SINCE THE TWELFTH REPORT**

- 6.1 As reported in the Twelfth Report, as at June 3, 2013, the Monitor was holding approximately \$118.1 million on behalf of the Applicants.
- 6.2 During the period from June 4 to September 30, 2013 (the "**Reporting Period**"), the Applicants' net cash outflows totaled approximately \$3.6 million, comprised of disbursements of approximately \$4.5 million, and receipts of approximately \$857,000, the latter of which includes deposit interest, corporate tax refunds and other miscellaneous items.
- 6.3 The disbursements during the Reporting Period, totaling approximately \$4.5 million, are primarily comprised of payments of approximately \$1.3 million made to U.S. taxing authorities in respect of estimated U.S. state corporate income taxes and other taxes for the 2012 fiscal year; professional fees and expenses totaling approximately \$2.8 million,

which include the fees and expenses incurred by KPMG, including in relation to preparing the U.S. Tax Estimate, its valuation work, the U.S. Federal Return and the U.S. State Returns, the Monitor, its legal counsel, the CPS, the Applicants' legal counsel, and other professionals retained by the Applicants to assist with the proceedings; and other disbursements of approximately \$362,000, including payments to the Directors and Trustees, GST/HST, insurance and insurance deductibles, and other disbursements of an administrative nature.

6.4 As noted in paragraph 4.80 above, on October 2, 2013, the Monitor received the U.S. Federal Tax Refund of approximately \$6 million. This refund is not included in the receipts discussed above as it was received after the Reporting Period.

6.5 The Monitor is currently holding approximately \$120.5 million, including the U.S. Federal Tax Refund, all of which is being held in interest-bearing bank accounts in the name of the Monitor, on behalf of the Applicants. Included in these funds is \$7.07 million, which includes interest, held in a U.S. escrow account pursuant to the DOJ Stipulation.

## **7.0 SUMMARY OF PROSPECTIVE FINANCIAL POSITION**

7.1 The following table provides a summary of the prospective financial position of the Applicants' estate, assuming the provisional settlements discussed in this Thirteenth Report are finalized.

<b>THE ARCTIC GLACIER PARTIES - SUMMARY OF PROSPECTIVE FINANCIAL POSITION, ASSUMING PROVISIONAL SETTLEMENTS ARE FINALIZED</b>	
	<b>Amount (\$000's)</b> (note 1)
<b>Funds currently held by the Monitor</b>	<b>120,500</b>
Less:	
Proven Claims	34,496
Desert Mountain Payment	1,250
NYWCB Payments	84
	<u>35,830</u>
<b>Funds remaining, before unresolved Claims</b>	<b>84,670</b>
Less:	
McNulty Claim	13,610
Johnson Claim (note 2)	12,259
Outstanding government Claim (subject to indemnification obligation) (note 3)	2,194
Claims disallowed, Dispute Period not yet expired	3,451
Other unresolved Claims	861
<b>Total unresolved Claims</b>	<b><u>32,375</u></b>
<b>Estimated funds remaining after accounting for all Claims, assuming provisional settlements are finalized (not taking into account ongoing administration costs of the CCAA Proceedings and any wind-down costs, any interest to be paid on Proven Claims, the finalization of all tax matters (including as detailed in paragraph 4.81), insurance matters and other matters detailed in this report)</b>	<b>52,295</b>
<p>Note 1 - Amounts shown are combined US\$ and CDN\$ (blended currency) and assume a US\$/CDN\$ exchange rate at par.</p> <p>Note 2 - The Notice of Dispute filed by Ms. Johnson does not provide a liquidated Claim amount and states that the amount of the Claim is "to be determined upon full disclosure". The amount of Ms. Johnson's Claim in the table above remains unchanged from the Tenth Report where it was noted that the actual Claim filed by Ms. Johnson appears to be significantly greater than the face amount set out on the Proof of Claim.</p> <p>Note 3 - The outstanding government Claim was filed by the State of California Franchise Tax Board, in the amount of approximately \$2.194 million. The former owners of certain of the Applicants' California operations acknowledged their indemnification obligations to the Applicants in respect of any amounts that may be owing in respect of this Claim. In support of the indemnity, \$100,000 is being held in escrow. The former owners are currently disputing the assessment underlying the Claim with the State of California Franchise Tax Board.</p>	

7.2 The estimated funds remaining after accounting for all Claims on the basis that the provisional settlements are finalized total \$52.3 million. This total does not take into account ongoing administration costs of the CCAA Proceedings and any wind-down

costs, any interest to be paid on the Proven Claims, the finalization of all tax matters (including as detailed in paragraph 4.81), insurance matters and other matters detailed in this Report. The Monitor notes that of the \$32.4 million of unresolved Claims, the majority relates to the McNulty Claim and the Johnson Claim which total \$25.9 million, as filed. The Monitor has provided a comprehensive update with respect to the status of those Claims earlier in this Report.

## **8.0 ACTIVITIES OF THE MONITOR**

8.1 In addition to the activities of the Monitor described above, the Monitor's activities from the date of the Twelfth Report (June 10, 2013) have included the following:

- Participating in update conference calls between the Monitor, the Monitor's legal counsel, the Applicants' legal counsel, and the CPS to discuss the status of various outstanding matters;
- Providing for non-confidential materials filed with this Honourable Court and with the U.S. Bankruptcy Court to be publicly available on the Monitor's website in respect of these CCAA Proceedings and the Chapter 15 Proceedings;
- Drafting this Thirteenth Report;
- Acting as foreign representative in the Chapter 15 Proceedings;
- Communicating with the Applicants' insurers in respect of new insurance claims filed and the proposed settlements of certain open claims;
- Communicating with claims adjusters and with plaintiffs' counsel regarding certain open insurance claims;

- Fulfilling the Monitor’s responsibilities pursuant to the Claims Procedure Order, including reviewing Proofs of Claim received, engaging in correspondence and discussions with certain of the Claimants, issuing Notices of Disallowance, accepting certain Claims, and referring certain disputes to Claims Officers all in accordance with the provisions of the Claims Procedure Order and the Claims Officer Order;
- Attending the June 13, 2013 Stay extension Court hearing and attending the Desert Mountain Judicially Assisted Dispute Resolution conference before the Honourable Mr. Justice Martin on June 19, 2013;
- Maintaining estate bank accounts, overseeing and accounting for the Applicants’ receipts and disbursements pursuant to the Transition Order, and providing certain professional fee invoices to the CPS for review and discussion;
- Preparing and filing monthly GST/HST returns and various other statutory returns; and
- Responding to enquiries from unitholders and other stakeholders, including addressing questions or concerns of parties who contacted the Monitor or the CPS on the toll-free hotline number established by the Monitor.

## **9.0 THE STAY EXTENSION**

9.1 The Monitor is requesting an extension of the Stay Period to February 7, 2014. The Monitor believes that the Applicants have acted and continue to act in good faith and with due diligence.



9.2 The Monitor believes that an extension of the Stay Period until February 7, 2014 is appropriate, as it should allow sufficient time for the Monitor, in consultation with the Applicants, to continue to resolve Claims filed in the Claims Process and to refer any remaining disputed Claims to a Claims Officer or the Court for adjudication. The proposed Stay extension date of February 7, 2014 is being requested in light of the projected timeline necessary to seek U.S. Bankruptcy Court approvals for the Indirect Purchaser Settlement. Further, as discussed in paragraph 2.3 above, during the proposed extended Stay Period, the Monitor intends to work with the Applicants and the CPS to be in a position to recommend a distribution mechanism as soon as reasonably possible.

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

10.1 Given that the Applicants are no longer operating a business, the Applicants and the Monitor have not prepared an extended cash flow forecast through the expiry of the requested extension to the Stay Period. On behalf of the Applicants, the Monitor intends to continue to satisfy any amounts properly incurred in respect of the ongoing administration of the estate, including those with respect to administering the Claims Process, from the funds being held by the Monitor in the estate bank accounts. The Monitor anticipates that such amounts will be primarily limited to fees and expenses of the Directors and Trustees, insurance-related expenses, taxes, professional fees and expenses, and other incidental fees and costs. The funds which the Monitor is holding in its estate bank accounts will be sufficient to satisfy such disbursements.

10.2 For the reasons set out in this Thirteenth Report, the Monitor hereby respectfully recommends that this Honourable Court grant the relief being requested by the Monitor in its Notice of Motion.

\*\*\*\*\*

All of which is respectfully submitted to this Honourable Court this 10<sup>th</sup> day of October, 2013.

**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".**

A handwritten signature in blue ink, appearing to read "Richard A. Morawetz", written over a horizontal line.

Per: Richard A. Morawetz, Senior Vice President

## Appendix A

## APPENDIX “A” – LIST OF APPLICANTS

Arctic Glacier California Inc.  
Arctic Glacier Grayling Inc.  
Arctic Glacier Inc.  
Arctic Glacier Income Fund  
Arctic Glacier International 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., ARCTIC GLACIER INTERNATIONAL INC. and the ADDITIONAL  
APPLICANTS LISTED ON SCHEDULE "A" HERETO

(collectively, the "APPLICANTS")

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CERTIFIED COPY

of

**CLAIMS PROCEDURE ORDER**

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**THE QUEEN'S BENCH  
Winnipeg Centre**

THE HONOURABLE MADAM             )    WEDNESDAY, THE 5<sup>th</sup> DAY  
  )      
JUSTICE SPIVAK                        )    OF SEPTEMBER, 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., ARCTIC GLACIER INTERNATIONAL INC. and the  
ADDITIONAL APPLICANTS LISTED ON SCHEDULE "A" HERETO

CERTIFIED COPY                        (collectively, the "APPLICANTS")  
  of  
**CLAIMS PROCEDURE ORDER**

THIS MOTION, made by Alvarez & Marsal Canada Inc. in its capacity as monitor of the Applicants (the "**Monitor**") for an order establishing a claims process to identify and determine claims of creditors of the Applicants (the "**Claims Process**") 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 Notice of Motion and the Sixth Report of the Monitor (the "**Sixth Report**"), and on hearing the submissions of counsel for the Monitor, counsel for the Applicants and Glacier Valley Ice Company, L.P. (California) (together, "**Arctic Glacier**" or the "**Arctic Glacier Parties**"), counsel for the Direct Purchaser Claimants (as hereinafter defined), counsel for the Plaintiffs in the Indirect Purchaser Litigation (as hereinafter defined), counsel for the Trustees of the Applicant Arctic Glacier Income Fund, counsel for Desert Mountain Ice LLC, counsel for the Executive Vice-President of Operations for Arctic Glacier, the Chief Process Supervisor and representatives of Talamod Fund LP and Coliseum

Capital Partners LP, also present in person or by telephone, no one appearing for any other party although duly served as appears from the affidavit of service, filed:

**SERVICE**

1. THIS COURT ORDERS that the time for service of this Motion and the Sixth Report is hereby abridged and validated such that this Motion is properly returnable today and hereby dispenses with further service thereof.

**DEFINITIONS AND INTERPRETATION**

2. THIS COURT ORDERS that, for the purposes of this Order establishing a Claims Process for the Creditors of Arctic Glacier (and in addition to terms defined elsewhere herein), the following terms shall have the following meanings ascribed thereto:

“**Administration Charge**” has the meaning given to that term in paragraph 50 of the Initial Order.

“**Asset Purchase Agreement**” means the asset purchase agreement between Arctic Glacier Income Fund et al. and H.I.G. Zamboni, LLC made as of June 7, 2012, as amended.

“**Assumed Liabilities**” means the liabilities the Purchaser assumed, fulfilled, performed and discharged as set out in Section 2.03 of the Asset Purchase Agreement.

“**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

“**Business Day**” means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Winnipeg, Manitoba.

“**Calendar Day**” means a day, including a Saturday, Sunday and any statutory holidays.



**“Canadian Retail Litigation”** means the class actions listed on Schedule “G” to this Order, commenced in Canada.

**“Canadian Retail Litigation Claimants”** means each of the members of the class(es) described in the Canadian Retail Litigation class actions.

**“CCAA”** means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C36, as amended.

**“CCAA Proceedings”** means the proceedings commenced by Arctic Glacier in the Court at Winnipeg under Court File No. CI 12-01-76323.

**“CCAA Service List”** means the service list in the CCAA Proceedings as defined in paragraph 66 of the Initial Order and posted on the Monitor’s Website, as amended from time to time.

**“Chapter 15 Cases”** means the proceedings commenced by the Monitor as the foreign representative on behalf of the Applicants on February 22, 2012 in the United States Bankruptcy Court for the District of Delaware under Chapter 15 of title 11 of the *United States Code* under Case No. 12-10605 (KG).

**“Claim”** means any right or claim of any Person, other than an Excluded Claim, but including an Equity Claim, that may be asserted or made in whole or in part against an Arctic Glacier Party, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by

guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person (including Directors, Officers and Trustees) to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts prior to the Claims Bar Date, (B) relates to a time period prior to the Claims Bar Date, or (C) is a right or claim of any kind that would be a claim provable in bankruptcy within the meaning of the BIA had the Arctic Glacier Party become bankrupt on the Claims Bar Date.

**“Claimant”** means any Person having a Claim, including a DO&T Indemnity Claim, or a DO&T Claim and includes the transferee or assignee of a Claim, a DO&T Indemnity Claim or a DO&T Claim or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through any such Person.

**“Claimants’ Guide to Completing the DO&T Proof of Claim”** means the guide to completing the DO&T Proof of Claim form, in substantially the form attached as Schedule “D-2” hereto.

**“Claimants’ Guide to Completing the Proof of Claim”** means the guide to completing the Proof of Claim form, in substantially the form attached as Schedule “C-2” hereto.

**“Claims Bar Date”** means October 31, 2012.

**“Class Claim”** means a Claim that may be proven by a Class Representative in accordance with the terms of this Order.

**“Class Representative”** means, for the purposes of this Order establishing a Claims Process for the Creditors of Arctic Glacier, Dickinson Wright LLP in respect of the Direct Purchaser Claimants, Harrison Pensa LLP in respect of the Canadian Retail Litigation Claimants, and Wild Law Group PLLC in respect of the Indirect Purchaser

Claimants described in the Indirect Purchaser Litigation commenced in the United States, or such other class representative who is acceptable to the Monitor.

“**Court**” means the Court of Queen’s Bench of Manitoba.

“**Creditor**” means any Person having a Claim (including a Class Claim), DO&T Claim or a DO&T Indemnity Claim and includes, without limitation, the transferee or assignee of a Claim, DO&T Claim or DO&T Indemnity Claim transferred and recognized as a Creditor in accordance with paragraph 48 hereof or a trustee, executor, liquidator, receiver, receiver and manager or other Person acting on behalf of or through such Person.

“**Creditors’ Meeting**” means any meeting of creditors called for the purpose of considering and/or voting in respect of any Plan, if one is filed, to be scheduled pursuant to further order of the Court.

“**Deemed Proven Claims**” means: (i) a Claim in favour of the Direct Purchaser Claimants in the principal amount of US\$10,000,000 plus applicable interest against the Applicants Arctic Glacier Income Fund, Arctic Glacier Inc. and Arctic Glacier International Inc.; and (ii) the DOJ Claim.

“**Direct Purchaser Claimants**” means each of the members of the class(es) described in the statements of claim issued in the Direct Purchaser Litigation.

“**Direct Purchaser Litigation**” means the class actions listed on Schedule “I” to this Order.

“**Direct Purchasers’ Advisors’ Charge**” has the meaning given to that term in paragraph 4 of the Order of the Honourable Madam Justice Spivak in the CCAA Proceedings on May 15, 2012.

“**Director**” means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of an Arctic Glacier Party.

**"Directors' Charge"** has the meaning given to that term in paragraph 40 of the Initial Order.

**"Dispute Notice"** means a written notice to the Monitor, in substantially the form attached as Appendix "1" to Schedule "F" hereto, delivered to the Monitor by a Person who has received a Notice of Revision or Disallowance, of its intention to dispute such Notice of Revision or Disallowance.

**"DOJ Claim"** means the Claim of the United States against Arctic Glacier International Inc. in the amount of US\$7,032,046.96 as of July 9, 2012, plus interest compounding annually until the date of payment of such Claim at the United States federal post-judgment interest rate of 0.34%, as provided for in the *Stipulation and Order Among the Monitor, Debtors, and the United States Attorney's Office for the Southern District of Ohio Regarding March 2010 Criminal Judgment of Arctic Glacier International Inc.*, dated July 17, 2012, as entered by the U.S. Court in the Chapter 15 Cases.

**"DO&T Claim"** means (i) any right or claim of any Person that may be asserted or made in whole or in part against one or more Directors, Officers or Trustees that relates to a Claim for which such Directors, Officers or Trustees are by law liable to pay in their capacity as Directors, Officers or Trustees, or (ii) any right or claim of any Person that may be asserted or made in whole or in part against one or more Directors, Officers or Trustees, in that capacity, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal,

equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature, including any right or ability of any Person to advance a claim for contribution or indemnity from any such Directors, Officers or Trustees or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation, and any interest accrued thereon or costs payable in respect thereof (A) is based in whole or in part on facts prior to the Claims Bar Date, or (B) relates to a time period prior to the Claims Bar Date, but not including an Excluded Claim.

**“DO&T Indemnity Claim”** means any existing or future right of any Director, Officer or Trustee against an Arctic Glacier Party, which arose or arises as a result of any Person filing a DO&T Proof of Claim in respect of such Director, Officer or Trustee for which such Director, Officer or Trustee is entitled to be indemnified by such Arctic Glacier Party.

**“DO&T Indemnity Claims Bar Date”** has the meaning set out in paragraph 21 hereof.

**“DO&T Indemnity Proof of Claim”** means the indemnity proof of claim in substantially the form attached as Schedule “E” hereto to be completed and filed by a Director, Officer or Trustee setting forth its purported DO&T Indemnity Claim and which shall include all supporting documents in respect of such DO&T Indemnity Claim.

**“DO&T Proof of Claim”** means the proof of claim, in substantially the form attached as Schedule “D” hereto, to be completed and filed by a Person setting forth its DO&T Claim and which shall include all supporting documentation in respect of such DO&T Claim.

**“Equity Claim”** has the meaning set forth in Section 2(1) of the CCAA.

**“Excluded Claim”** means:

- (i) any Claim entitled to the benefit of the Administration Charge, the Inter-Company Balances Charge (as defined in the Initial Order) or the Direct Purchasers' Advisors' Charge;
- (ii) any Claim of an Arctic Glacier Party against another Arctic Glacier Party; and
- (iii) any Claim in respect of Assumed Liabilities.

**"Government Authority"** means a federal, provincial, state, territorial, municipal or other government or government department, agency or authority (including a court of law) having jurisdiction over an Arctic Glacier Party.

**"Indirect Purchaser Claimants"** means each of the members of the putative classes described in the complaints or statements of claim issued in the Indirect Purchaser Litigation.

**"Indirect Purchaser Litigation"** means the putative class actions listed on Schedule "H" to this Order, commenced in the United States.

**"Initial Order"** means the Initial order of the Honourable Madam Justice Spivak made February 22, 2012 in the CCAA Proceedings, as amended, extended, restated or varied from time to time.

**"Monitor's Website"** means [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier).

**"Notice of Revision or Disallowance"** means a notice, in substantially the form attached as Schedule "F" hereto, advising a Claimant or a Class Representative, as the case may be, that the Monitor has revised or disallowed all or part of a Claim, Class Claim, DO&T Claim or DO&T Indemnity Claim submitted by such Claimant or Class Representative pursuant to this Order.

**"Notice to Claimants"** means the notice to Claimants for publication in substantially the form attached as Schedule "B" hereto.

**“Officer”** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of an Arctic Glacier Party.

**“Person”** is to be broadly interpreted and includes any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, Government Authority or any agency, regulatory body, officer or instrumentality thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity.

**“Plan”** means any proposed plan(s) of compromise or arrangement to be filed by any or all of the Applicants pursuant to the CCAA as amended, supplemented or restated from time to time in accordance with the terms thereof.

**“Proof of Claim”** means the proof of claim in substantially the form attached as Schedule “C” hereto to be completed and filed by a Person setting forth the Claim (including a Class Claim) it is entitled to file and which shall include all supporting documentation in respect of such Claim.

**“Proof of Claim Document Package”** means a document package that includes a copy of the Notice to Claimants, the Proof of Claim form, the DO&T Proof of Claim form, the Claimants’ Guide to Completing the Proof of Claim form, the Claimants’ Guide to Completing the DO&T Proof of Claim form, and such other materials as the Monitor, in consultation with Arctic Glacier, may consider appropriate or desirable.

**“Proven Claim”** means each of the Deemed Proven Claims and each Claim that has been proven in accordance with this Order.

**“Purchaser”** means Arctic Glacier LLC, formerly known as H.I.G. Zamboni, LLC, and its affiliates Arctic Glacier U.S.A., Inc. and Arctic Glacier Canada Inc.

“**Trustee**” means any Person who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a trustee or *de facto* trustee of the Applicant Arctic Glacier Income Fund, in such capacity.

“**U.S. Court**” means the United States Bankruptcy Court for the District of Delaware having jurisdiction over the Chapter 15 Cases.

3. THIS COURT ORDERS that all references as to time herein shall mean local time in Winnipeg, Manitoba, Canada, and any reference to an event occurring on a Calendar Day or a Business Day shall mean prior to 5:00 p.m. Winnipeg time on such Calendar Day or Business Day unless otherwise indicated herein.

4. THIS COURT ORDERS that all references to the word “including” shall mean “including without limitation”, that all references to the singular herein include the plural, the plural include the singular, and that any gender includes all genders.

#### **GENERAL PROVISIONS**

5. THIS COURT ORDERS that the Monitor, in consultation with Arctic Glacier, is hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed, and the time in which they are submitted, and may, where it is satisfied that a Claim, a DO&T Claim or a DO&T Indemnity Claim has been adequately proven, waive strict compliance with the requirements of this Order, including in respect of completion, execution and time of delivery of such forms. Further, the Monitor may request any further documentation from a Person that the Monitor, in consultation with Arctic Glacier, may require in order to enable it to determine the validity of a Claim, a DO&T Claim or a DO&T Indemnity Claim.

6. THIS COURT ORDERS that if any Claim, DO&T Claim or DO&T Indemnity Claim arose in a currency other than Canadian dollars, then the Person making the Claim, DO&T Claim or DO&T Indemnity Claim shall complete its Proof of Claim, DO&T Proof of Claim or DO&T Indemnity Proof of Claim, as applicable, indicating the



amount of the Claim, DO&T Claim or DO&T Indemnity Claim in such currency, rather than in Canadian dollars or any other currency.

7. THIS COURT ORDERS that Claims, DO&T Claims and DO&T Indemnity Claims shall be claimed and paid in the currency in which they are owed and, to the extent that there are insufficient funds to pay a Claim, DO&T Claim and/or DO&T Indemnity Claim in the currency in which it is owed, the Monitor is hereby authorized to convert the currency at the Bank of Canada noon exchange rate on the date of the Initial Order.

8. THIS COURT ORDERS that a Person making a Claim, DO&T Claim or DO&T Indemnity Claim shall complete its Proof of Claim, DO&T Proof of Claim or DO&T Indemnity Proof of Claim, as applicable, indicating the amount of the Claim, DO&T Claim or DO&T Indemnity Claim, including interest calculated to the Claims Bar Date.

9. THIS COURT ORDERS that the form and substance of each of the Notice to Claimants, Proof of Claim, Claimants' Guide to Completing the Proof of Claim, DO&T Proof of Claim, Claimants' Guide to Completing the DO&T Proof of Claim, DO&T Indemnity Proof of Claim, Notice of Revision or Disallowance and the Dispute Notice attached as Appendix "1" thereto, substantially in the forms attached as Schedules "B", "C", "C-2", "D", "D-2", "E" and "F" respectively to this Order are hereby approved. Notwithstanding the foregoing, the Monitor, in consultation with Arctic Glacier, may from time to time make non-substantive changes to such forms as the Monitor, in consultation with Arctic Glacier, considers necessary or advisable.

10. THIS COURT ORDERS that copies of all forms delivered by a Creditor or the Monitor hereunder, as applicable, shall be maintained by the Monitor and, subject to further order of the Court, the relevant Creditor will be entitled to have access thereto by appointment during normal business hours on written request to the Monitor.

11. THIS COURT ORDERS that consultation with the Chief Process Supervisor appointed pursuant to paragraph 25 of the Initial Order (the "CPS") shall satisfy any obligation of the Monitor in this Order to consult with Arctic Glacier and obtaining the

consent of the CPS shall satisfy any obligation of the Monitor in this Order to obtain the consent of Arctic Glacier. The protections provided to the CPS in the Initial Order and/or the Transition Order dated July 12, 2012, shall apply to any activities undertaken by the CPS in accordance with this Order.

### **MONITOR'S ROLE**

12. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order or incidental thereto.

13. THIS COURT ORDERS that (i) in carrying out the terms of this Order, the Monitor shall have all of the protections given to it by the CCAA, the Initial Order, other orders in the CCAA Proceeding, and this Order, or as an officer of the Court, including the stay of proceedings in its favour, (ii) the Monitor shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, (iii) the Monitor shall be entitled to rely on the books and records of the Arctic Glacier Parties and any information provided by the Arctic Glacier Parties, all without independent investigation, and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

### **NOTICE TO CLAIMANTS, DIRECTORS AND OFFICERS**

14. THIS COURT ORDERS that:

- (a) the Monitor shall, no later than two (2) Business Days following the making of this Order, post a copy of the Proof of Claim Document Package on the Monitor's Website;
- (b) the Monitor shall, no later than five (5) Business Days following the making of this Order, cause the Notice to Claimants to be published in (i) The Globe and Mail newspaper (National Edition) on one such day, (ii) the Wall Street

Journal (National Edition) on one such day, and (iii) the Winnipeg Free Press on one such day;

- (c) the Monitor shall, provided such request is received in writing by the Monitor prior to the Claims Bar Date, deliver, as soon as reasonably possible following receipt of a request therefor, a copy of the Proof of Claim Document Package to any Person requesting such material; and
- (d) the Monitor shall send to any Director, Officer or Trustee named in a DO&T Proof of Claim received on or before the Claims Bar Date a copy of such DO&T Proof of Claim, including copies of any documentation submitted to the Monitor by the Claimant making the DO&T Claim, as soon as practicable.

15. THIS COURT ORDERS that within seven (7) Business Days following the making of this Order, the Monitor shall send a Proof of Claim Document Package to all known Creditors based on the books and records of Arctic Glacier, except that, in respect of Class Claims, the Monitor shall send the Proof of Claim Document Package only to the Class Representative and, in respect of any other putative class actions, the Monitor shall send the Proof of Claim Document Package only to the first listed plaintiff's counsel on the originating process associated with that putative class action.

16. THIS COURT ORDERS that, except as otherwise set out in this Order or any other orders of the Court, neither the Monitor nor any Arctic Glacier Party is under any obligation to send or provide notice to any Person holding a Claim, a DO&T Claim or a DO&T Indemnity Claim, and without limitation, neither the Monitor nor any Arctic Glacier Party shall have any obligation to send or provide notice to any Person having a security interest in a Claim, DO&T Claim or DO&T Indemnity Claim (including the holder of a security interest created by way of a pledge or a security interest created by way of an assignment of a Claim, DO&T Claim or DO&T Indemnity Claim), and all Persons shall be bound by any notices published pursuant to paragraphs 14(a) and 14(b) of this Order regardless of whether or not they received actual notice, and any steps taken

in respect of any Claim, DO&T Claim or DO&T Indemnity Claim in accordance with this Order.

17. THIS COURT ORDERS that the delivery of a Proof of Claim Document Package, Proof of Claim, DO&T Proof of Claim, or DO&T Indemnity Proof of Claim by the Monitor to a Person shall not constitute an admission by the Arctic Glacier Parties or the Monitor of any liability of any Arctic Glacier Party or any Director, Officer or Trustee to any Person.

### **CLAIMS BAR DATE**

#### *Claims and DO&T Claims*

18. THIS COURT ORDERS that Proofs of Claim and DO&T Proofs of Claim shall be filed with the Monitor on or before the Claims Bar Date. For the avoidance of doubt, a Proof of Claim or DO&T Proof of Claim, as applicable, must be filed in respect of every Claim or DO&T Claim, regardless of whether or not a legal proceeding in respect of a Claim or DO&T Claim has been previously commenced.

19. THIS COURT ORDERS that any Person that does not file a Proof of Claim as provided for herein such that the Proof of Claim is received by the Monitor on or before the Claims Bar Date (a) shall be and is hereby forever barred from making or enforcing such Claim against the Arctic Glacier Parties and all such Claims shall be forever extinguished; (b) shall be and is hereby forever barred from making or enforcing such Claim as against any other Person who could claim contribution or indemnity from the Arctic Glacier Parties; (c) shall not be entitled to vote such Claim at any Creditors' Meeting in respect of any Plan or to receive any distribution thereunder in respect of such Claim; and (d) shall not be entitled to any further notice in and shall not be entitled to participate as a Claimant or Creditor in the CCAA Proceedings in respect of such Claim.

20. THIS COURT ORDERS that any Person that does not file a DO&T Proof of Claim as provided for herein such that the DO&T Proof of Claim is received by the Monitor on or before the Claims Bar Date (a) shall be and is hereby forever barred from

making or enforcing such DO&T Claim against any Directors, Officers or Trustees, and all such DO&T Claims shall be forever extinguished; (b) shall be and is hereby forever barred from making or enforcing such DO&T Claim as against any other Person who could claim contribution or indemnity from any Directors, Officers or Trustees; (c) shall not be entitled to receive any distribution in respect of such DO&T Claim; and (d) shall not be entitled to any further notice in and shall not be entitled to participate as a Claimant or Creditor in the CCAA Proceedings in respect of such DO&T Claim.

*DO&T Indemnity Claims*

21. THIS COURT ORDERS that any Director, Officer or Trustee wishing to assert a DO&T Indemnity Claim shall deliver a DO&T Indemnity Proof of Claim to the Monitor so that it is received by no later than fifteen (15) Business Days after the date of deemed receipt of the DO&T Proof of Claim pursuant to paragraph 51 hereof by such Director, Officer or Trustee (with respect to each DO&T Indemnity Claim, the “**DO&T Indemnity Claims Bar Date**”).

22. THIS COURT ORDERS that any Director, Officer or Trustee that does not file a DO&T Indemnity Proof of Claim as provided for herein such that the DO&T Indemnity Proof of Claim is received by the Monitor on or before the applicable DO&T Indemnity Claims Bar Date (a) shall be and is hereby forever barred from making or enforcing such DO&T Indemnity Claim against any Arctic Glacier Party, and such DO&T Indemnity Claim shall be forever extinguished; (b) shall be and is hereby forever barred from making or enforcing such DO&T Indemnity Claim as against any other Person who could claim contribution or indemnity from an Arctic Glacier Party; and (c) shall not be entitled to vote such DO&T Indemnity Claim at any Creditors' Meeting in respect of any Plan or to receive any distribution in respect of such DO&T Indemnity Claim.

*Excluded Claims*

23. THIS COURT ORDERS that Persons with Excluded Claims shall not be required to file a Proof of Claim in this process in respect of such Excluded Claims, unless required to do so by further order of the Court.

## **PROOFS OF CLAIM**

24. THIS COURT ORDERS that each Person shall include any and all Claims it asserts against the Arctic Glacier Parties in a single Proof of Claim.

25. THIS COURT ORDERS that each Person shall include any and all DO&T Claims it asserts against one or more Directors, Officers or Trustees in a single DO&T Proof of Claim.

26. THIS COURT ORDERS that if a Person submits a Proof of Claim and a DO&T Proof of Claim in relation to the same matter, then that Person shall cross-reference the DO&T Proof Claim in the Proof of Claim and the Proof of Claim in the DO&T Proof of Claim.

## **DOJ CLAIM**

27. THIS COURT ORDERS that the Government of the United States shall be deemed to have submitted a Proof of Claim in the amount of and on account of the DOJ Claim, and the Government of the United States does not need to take any further action to prove the DOJ Claim in this Claims Process unless it wishes to do so; provided, however, that this paragraph only addresses the rights of the United States Attorney's Office for the Southern District of Ohio and the U.S. Department of Justice Antitrust Division on account of the DOJ Claim, and nothing contained herein shall excuse any other United States federal or state agency from otherwise complying with the terms of this Order.

## **CLASS CLAIMS**

28. THIS COURT ORDERS that the Class Representative in respect of the Direct Purchaser Litigation shall be deemed to have submitted a Proof of Claim on behalf of the Direct Purchaser Claimants in the principal amount of US\$10,000,000 plus applicable interest against the Applicants Arctic Glacier Income Fund, Arctic Glacier Inc. and Arctic Glacier International Inc. and such Claim shall be a Deemed Proven Claim.

29. THIS COURT ORDERS that the Class Representative in respect of the Canadian Retail Litigation may submit a Proof of Claim in respect of Claims of the Canadian Retail Litigation Claimants in the Canadian Retail Litigation for which they are Class Representative, indicating the amount claimed by such Canadian Retail Litigation Claimants and the basis of such Claim.

30. THIS COURT ORDERS that the Class Representative in respect of the Indirect Purchaser Litigation may submit a Proof of Claim in respect of Claims of the Indirect Purchaser Claimants set out in the Indirect Purchaser Litigation for which they are Class Representative, indicating the amount claimed by such Indirect Purchaser Claimants and the basis of such Claim.

31. THIS COURT ORDERS that, notwithstanding any other provisions of this Order, Canadian Retail Litigation Claimants and Indirect Purchaser Claimants are not required to file individual Proofs of Claim in respect of Claims relating solely to the Class Claims described in the Indirect Purchaser Litigation or Canadian Retail Litigation. However, any Canadian Retail Litigation Claimant or Indirect Purchaser Claimant may file a Proof of Claim to assert her claim individually and, in such event, such Canadian Retail Litigation Claimant or Indirect Purchaser Claimant shall be deemed to have elected not to authorize the Class Representative to include her Claim.

32. THIS COURT ORDERS that:

- (a) nothing contained in this Order shall prejudice the Arctic Glacier Parties' or the Monitor's rights to object to or otherwise oppose, on any and all bases, the validity and/or amount of any Class Claim that may be filed by the Canadian Retail Litigation Claimants or Indirect Purchaser Claimants in the CCAA Proceedings, including on the basis that the class cannot be certified under applicable law or the claim is not otherwise qualified as a Class Claim in the Claims Process established by this Order or further order of this Court;
- (b) nothing contained in this Order, this motion or the evidence submitted in the CCAA Proceedings is an admission or recognition of the Class

Representative's right to represent the Class for any other purpose other than filing a Proof of Claim on behalf of Canadian Retail Litigation Claimants or Indirect Purchaser Claimants and resolving such Claim in accordance with this Order or further order of the Court; and

- (c) this Order is without prejudice to the right of the Canadian Retail Litigation Claimants and Indirect Purchaser Claimants, their Class Representatives or their counsel, with leave of this Court, to seek an order in the Canadian Retail Litigation or Indirect Purchaser Litigation, as applicable, granting rights of representation in these CCAA Proceedings.

### **REVIEW OF PROOFS OF CLAIM & DO&T PROOFS OF CLAIM**

33. THIS COURT ORDERS that the Monitor, subject to the terms of this Order, shall review all Proofs of Claim and DO&T Proofs of Claim filed, and at any time:

- (a) may request additional information from a Claimant or Class Representative, as the case may be;
- (b) may request that a Claimant or Class Representative, as the case may be, file a revised Proof of Claim or DO&T Proof of Claim, as applicable;
- (c) may, (i) with the consent of the Arctic Glacier Parties and any Person whose liability may be affected or (ii) with Court approval in a further order of the Court and (iii) in respect of a Class Claim, subject to the approval of a court of competent jurisdiction over the Indirect Purchaser Litigation or Canadian Retail Litigation resolve and settle any issue or Claim arising in a Proof of Claim or DO&T Proof of Claim or in respect of a Claim or DO&T Claim; and
- (d) may, in consultation with Arctic Glacier with respect to the Proofs of Claim and the Directors, Officers and Trustees named in the applicable DO&T Proof of Claim with respect to the DO&T Proofs of Claim, as applicable, by



notice in writing, revise or disallow (in whole or in part) any Claim or DO&T Claim.

34. THIS COURT ORDERS that where a Claim or DO&T Claim has been accepted by the Monitor in accordance with this Order, such Claim or DO&T Claim shall constitute such Claimant's Proven Claim.

35. THIS COURT ORDERS that where a Claim or DO&T Claim is revised or disallowed (in whole or in part), the Monitor shall deliver to the Claimant or, in the case of a Class Claim, to the Class Representative, a Notice of Revision or Disallowance, attaching the form of Dispute Notice.

36. THIS COURT ORDERS that where a Claim or DO&T Claim has been revised or disallowed (in whole or in part), the revised or disallowed Claim or DO&T Claim (or revised or disallowed portion thereof) shall not be a Proven Claim until determined otherwise in accordance with the procedures set out in paragraphs 41 to 47 hereof or as otherwise ordered by the Court.

#### **REVIEW OF DO&T INDEMNITY PROOFS OF CLAIM**

37. THIS COURT ORDERS that the Monitor, subject to the terms of this Order, shall review all DO&T Indemnity Proofs of Claim filed, and at any time:

- (a) may request additional information from a Director, Officer or Trustee;
- (b) may request that a Director, Officer or Trustee file a revised DO&T Indemnity Proof of Claim;
- (c) may attempt to resolve and settle any issue or Claim arising in a DO&T Indemnity Proof of Claim or in respect of a DO&T Indemnity Claim;
- (d) may accept (in whole or in part) any DO&T Indemnity Claim; and
- (e) may, by notice in writing, revise or disallow (in whole or in part) any DO&T Indemnity Claim.

38. THIS COURT ORDERS that where a DO&T Indemnity Claim has been accepted by the Monitor in accordance with this Order, such DO&T Indemnity Claim shall constitute such Director, Officer or Trustee's Proven Claim.

39. THIS COURT ORDERS that where a DO&T Indemnity Claim is revised or disallowed (in whole or in part), the Monitor shall deliver to the Director, Officer or Trustee a Notice of Revision or Disallowance, attaching the form of Dispute Notice.

40. THIS COURT ORDERS that where a DO&T Indemnity Claim has been revised or disallowed (in whole or in part), the revised or disallowed DO&T Indemnity Claim (or revised or disallowed portion thereof) shall not be a Proven Claim until determined otherwise in accordance with the procedures set out in paragraphs 41 to 47 hereof or as otherwise ordered by the Court.

#### **DISPUTE NOTICE**

41. THIS COURT ORDERS that a Person who has received a Notice of Revision or Disallowance in respect of a Claim (including a Class Claim), a DO&T Claim or a DO&T Indemnity Claim who intends to dispute such Notice of Revision or Disallowance shall file a Dispute Notice with the Monitor not later than the twenty-first (21<sup>st</sup>) Calendar Day following deemed receipt of the Notice of Revision or Disallowance pursuant to paragraph 51 of this Order. The filing of a Dispute Notice with the Monitor in accordance with this paragraph shall result in such Claim, DO&T Claim or DO&T Indemnity Claim being determined as set out in paragraphs 41 to 47 of this Order.

42. THIS COURT ORDERS that where a Claimant that receives a Notice of Revision or Disallowance fails to file a Dispute Notice with the Monitor within the time period provided therefor in paragraph 41 of this Order, the amount of such Claimant's Claim, DO&T Claim or DO&T Indemnity Claim, as applicable, shall be deemed to be as set out in the Notice of Revision or Disallowance and such amount, if any, shall constitute such Claimant's Proven Claim, and the balance of such Claimant's Claim, DO&T Claim, or DO&T Indemnity Claim, if any, shall be forever barred and extinguished.

**RESOLUTION OF CLAIMS, DO&T CLAIMS AND DO&T INDEMNITY  
CLAIMS**

43. THIS COURT ORDERS that, as soon as practicable after the delivery of the Dispute Notice in respect of a Claim or DO&T Claim to the Monitor, the Monitor shall attempt to resolve and settle the Claim or DO&T Claim with the Claimant or Class Representative, as applicable, in accordance with paragraph 33 of this Order.

44. THIS COURT ORDERS that as soon as practicable after the delivery of the Dispute Notice in respect of a DO&T Indemnity Claim to the Monitor, the Monitor shall attempt to resolve and settle the purported DO&T Indemnity Claim with the applicable Director, Officer or Trustee, in accordance with paragraph 37 of this Order.

45. THIS COURT ORDERS that in the event that a dispute raised in a Dispute Notice is not settled within a time period or in a manner satisfactory to the Monitor in consultation with the Arctic Glacier Parties and the applicable Claimant, the Monitor shall seek directions from the Court concerning an appropriate process for resolving the dispute.

46. THIS COURT ORDERS that any Claims and related DO&T Claims and/or DO&T Indemnity Claims shall be determined at the same time and in the same proceeding.

47. THIS COURT ORDERS that, notwithstanding any provision of this Order, in the event that a dispute is raised in a Dispute Notice in respect of any Class Claim made on behalf of the Indirect Purchaser Claimants in the Indirect Purchaser Litigation, the Monitor shall appoint a special claims officer for the purpose of determining such dispute, which special claims officer:

- (a) is a lawyer resident and licensed to practice in the United States of America;
- (b) has substantial experience as counsel in U.S. antitrust class actions; and
- (c) is acceptable to each of the Arctic Glacier Parties, the Monitor and the applicable Class Representative, provided that, should the parties fail to agree

on a special claims officer within a reasonable time, the Monitor shall apply for directions pursuant to this Order to appoint a special claims officer with the qualifications set out in subparagraphs (a) and (b).

#### **NOTICE OF TRANSFEREES**

48. THIS COURT ORDERS that neither the Monitor nor the Arctic Glacier Parties shall be obligated to send notice to or otherwise deal with a transferee or assignee of a Claim, DO&T Claim or DO&T Indemnity Claim as the Claimant in respect thereof unless and until (i) actual written notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received by the Monitor, and (ii) the Monitor shall have acknowledged in writing such transfer or assignment, and thereafter such transferee or assignee shall for all purposes hereof constitute the "Claimant" in respect of such Claim, DO&T Claim or DO&T Indemnity Claim. Any such transferee or assignee of a Claim, DO&T Claim or DO&T Indemnity Claim shall be bound by all notices given or steps taken in respect of such Claim, DO&T Claim or DO&T Indemnity Claim in accordance with this Order prior to the written acknowledgement by the Monitor of such transfer or assignment.

49. THIS COURT ORDERS that the transferee or assignee of any Claim, DO&T Claim or DO&T Indemnity Claim (i) shall take the Claim, DO&T Claim or DO&T Indemnity Claim subject to the rights and obligations of the transferor/assignor of the Claim, DO&T Claim or DO&T Indemnity Claim, and subject to the rights of the Arctic Glacier Parties and any Director, Officer or Trustee against any such transferor or assignor, including any rights of set-off which any Arctic Glacier Party, Director, Officer or Trustee had against such transferor or assignor, and (ii) cannot use any transferred or assigned Claim, DO&T Claim or DO&T Indemnity Claim to reduce any amount owing by the transferee or assignee to an Arctic Glacier Party, Director, Officer or Trustee, whether by way of set off, application, merger, consolidation or otherwise.

## **DIRECTIONS**

50. THIS COURT ORDERS that the Monitor, the Arctic Glacier Parties and any Person (but only to the extent such Person may be affected with respect to the issue on which directions are sought) may, at any time, and with such notice as the Court may require, seek directions from the Court with respect to this Order and the claims process set out herein, including the forms attached as Schedules hereto.

## **SERVICE AND NOTICE**

51. THIS COURT ORDERS that the Monitor may, unless otherwise specified by this Order, serve and deliver the Proof of Claim Document Package, the DO&T Indemnity Proof of Claim, the Notice of Revision or Disallowance, and any letters, notices or other documents to Claimants, Directors, Officers, Trustees, or other interested Persons, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to such Persons (with copies to their counsel as appears on the CCAA Service List if applicable) at the address as last shown on the records of the Arctic Glacier Parties or set out in such Person's Proof of Claim, DO&T Proof of Claim or DO&T Indemnity Proof of Claim. Any such service or notice shall be deemed to have been received: (i) if sent by ordinary mail, on the fourth Business Day after mailing; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by electronic transmission by 5:00 p.m. on a Business Day, on such Business Day, and if delivered after 5:00 p.m. or on a day other than on a Business Day, on the following Business Day. Notwithstanding anything to the contrary in this paragraph 51, Notices of Revision or Disallowance shall be sent only by (i) email or facsimile to an address or number or email address that has been provided in writing by the Claimant, Director, Officer or Trustee, or (ii) courier.

52. THIS COURT ORDERS that any notice or other communication (including Proofs of Claim, DO&T Proofs of Claims, DO&T Indemnity Proofs of Claim and Dispute Notices) to be given under this Order by any Person to the Monitor shall be in writing in substantially the form, if any, provided for in this Order and will be

sufficiently given only if delivered by prepaid ordinary mail, prepaid registered mail, courier, personal delivery or electronic transmission addressed to:

Alvarez & Marsal Canada Inc., Arctic Glacier Monitor

Address: Royal Bank Plaza, South Tower

200 Bay Street

Suite 2900

P.O. Box 22

Toronto, Ontario Canada

M5J 2J1

Fax No.: 416-847-5201

Email: [mmackenzie@alvarezandmarsal.com](mailto:mmackenzie@alvarezandmarsal.com)

[jnevsky@alvarezandmarsal.com](mailto:jnevsky@alvarezandmarsal.com)

Attention: Melanie MacKenzie and Joshua Nevsky

53. THIS COURT ORDERS that if, during any period during which notices or other communications are being given pursuant to this Order, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary mail and then not received shall not, absent further Order of the Court, be effective and notices and other communications given hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery or electronic transmission in accordance with this Order.

54. THIS COURT ORDERS that, in the event that this Order is later amended by further order of the Court, the Monitor shall post such further order on the Monitor's Website and such posting shall constitute adequate notice of such amendment.

#### **MISCELLANEOUS**

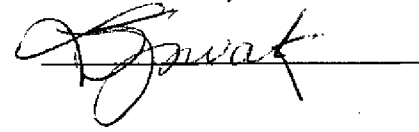
55. THIS COURT ORDERS that nothing in this Order shall constitute or be deemed to constitute an allocation or assignment of Claims, DO&T Claims, DO&T Indemnity Claims, or Excluded Claims into particular affected or unaffected classes for the purpose of a Plan and, for greater certainty, the treatment of Claims, DO&T Claims, DO&T

Indemnity Claims, Excluded Claims or any other claims are to be subject to a Plan or further order of the Court and the class or classes of Creditors for voting and distribution purposes shall be subject to the terms of any proposed Plan or further order of the Court.

56. THIS COURT ORDERS that nothing in this Order shall prejudice the rights and remedies of any Directors, Officers or Trustees or other Persons under the Directors' Charge or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the Arctic Glacier Parties' insurance and any Director's, Officer's and/or Trustee's liability insurance policy or policies that exist to protect or indemnify the Directors, Officers, Trustees and/or other persons, whether such recourse or payment is sought directly by the Person asserting a Claim or a DO&T Claim from the insurer or derivatively through the Director, Officer, Trustee or any Arctic Glacier Party; provided, however, that nothing in this Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Order limit, remove, modify or alter any defence to such claim available to the insurer pursuant to the provisions of any insurance policy or at law; and further provided that any Claim or DO&T Claim or portion thereof for which the Person receives payment directly from or confirmation that she is covered by the Arctic Glacier Parties' insurance or any Director's, Officer's or Trustee's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors, Officers, Trustees and/or other Persons shall not be recoverable as against an Arctic Glacier Party or Director, Officer or Trustee, as applicable.

57. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, including the United States Bankruptcy Court for the District of Delaware, or in any other foreign jurisdiction, 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 the 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.

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

CERTIFIED A TRUE COPY

A handwritten signature in cursive script, appearing to read "Miller", written over the printed text.

DEPUTY REGISTRAR



**SCHEDULE "A" - Additional Applicants**

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

**SCHEDULE "B"**

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**NOTICE TO CLAIMANTS  
AGAINST THE ARCTIC GLACIER PARTIES**

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**RE: NOTICE OF CLAIMS PROCESS FOR ARCTIC GLACIER INCOME FUND, ARCTIC GLACIER INC., ARCTIC GLACIER INTERNATIONAL INC., ARCTIC GLACIER CALIFORNIA INC., ARCTIC GLACIER GRAYLING INC., ARCTIC GLACIER LANSING INC., ARCTIC GLACIER MICHIGAN INC., ARCTIC GLACIER MINNESOTA INC., ARCTIC GLACIER NEBRASKA INC., ARCTIC GLACIER NEWBURGH INC., ARCTIC GLACIER NEW YORK INC., ARCTIC GLACIER OREGON INC., ARCTIC GLACIER PARTY TIME INC., ARCTIC GLACIER PENNSYLVANIA INC., ARCTIC GLACIER ROCHESTER INC., ARCTIC GLACIER SERVICES INC., ARCTIC GLACIER TEXAS INC., ARCTIC GLACIER 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. AND GLACIER VALLEY ICE COMPANY, L.P. (CALIFORNIA) (COLLECTIVELY, THE "ARCTIC GLACIER PARTIES") PURSUANT TO THE COMPANIES' CREDITORS ARRANGEMENT ACT (the "CCAA")**

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

**Alvarez & Marsal Canada Inc., Arctic Glacier Monitor**  
**Address: Royal Bank Plaza, South Tower**  
**200 Bay Street, Suite 2900, P.O. Box 22**  
**Toronto, ON Canada M5J 2J1**  
**Fax No.: 416-847-5201**  
**Email: mmackenzie@alvarezandmarsal.com,**  
**jnevsky@alvarezandmarsal.com**  
**Attention: Melanie MacKenzie and Joshua Nevsky**

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

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

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

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

**DATED** this • day of •, 2012.

**SCHEDULE "C"**

**PROOF OF CLAIM FORM FOR CLAIMS AGAINST  
THE ARCTIC GLACIER PARTIES<sup>1</sup>**

**1. Name of Arctic Glacier Party or Parties (the "Debtor"):**

**Debtor:** \_\_\_\_\_

**2a. Original Claimant (the "Claimant")**

Legal Name of Claimant	_____	Name of Contact	_____
Address	_____	Title	_____
_____		Phone #	_____
_____		Fax #	_____
City _____	Prov /State _____	email	_____
Postal/Zip Code	_____		

**2b. Assignee, if claim has been assigned**

Legal Name of Assignee	_____	Name of Contact	_____
Address	_____	Phone #	_____
_____		Fax #	_____
City _____	Prov /State _____	email:	_____
Postal/Zip Code	_____		

<sup>1</sup> Arctic Glacier Income Fund, Arctic Glacier Inc., Arctic Glacier International Inc., Arctic Glacier California Inc., Arctic Glacier Grayling Inc., Arctic Glacier Lansing Inc., Arctic Glacier Michigan Inc., Arctic Glacier Minnesota Inc., Arctic Glacier Nebraska Inc., Arctic Glacier Newburgh Inc., Arctic Glacier New York Inc., Arctic Glacier Oregon Inc., Arctic Glacier Party Time Inc., Arctic Glacier Pennsylvania Inc., Arctic Glacier Rochester Inc., Arctic Glacier Services Inc., Arctic Glacier Texas Inc., Arctic Glacier 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. and Glacier Valley Ice Company, L.P. (California) (collectively, the "Arctic Glacier Parties").

**3 Amount of Claim**

The Debtor was and still is indebted to the Claimant as follows:

Currency	Amount of Claim (including interest to October 31, 2012)	Unsecured Claim	Secured Claim
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

**4. Documentation**

Provide all particulars of the Claim and supporting documentation, including amount, and description of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, and amount of invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by the affected Debtor to the Claimant and estimated value of such security.

**5. Certification**

I hereby certify that:

1. I am the Claimant or authorized representative of the Claimant.
2. I have knowledge of all the circumstances connected with this Claim.
3. The Claimant asserts this Claim against the Debtor as set out above.
4. Complete documentation in support of this claim is attached.

Signature: \_\_\_\_\_

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

Title: \_\_\_\_\_

Witness:

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print)

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2012

**6. Filing of Claim**

This Proof of Claim must be received by the Monitor by 5:00 p.m. (Winnipeg time) on October 31, 2012 by prepaid ordinary mail, registered mail, courier, personal delivery or electronic transmission at the following address:

**Alvarez & Marsal Canada Inc., Arctic Glacier Monitor**

**Address: Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900, P.O. Box 22  
Toronto, ON Canada M5J 2J1**

**Attention: Melanie MacKenzie and Joshua Nevsky**

**Email: mmackenzie@alvarezandmarsal.com, jnevsky@alvarezandmarsal.com**

**Fax No.: 416-847-5201**

For more information see [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier), or contact the Monitor by telephone (1-866-688-0510)

## SCHEDULE "C-2"

### CLAIMANT'S GUIDE TO COMPLETING THE PROOF OF CLAIM FORM FOR CLAIMS AGAINST THE ARCTIC GLACIER PARTIES<sup>2</sup>

This Guide has been prepared to assist Claimants in filling out the Proof of Claim form for Claims against the Arctic Glacier Parties. If you have any additional questions regarding completion of the Proof of Claim, please consult the Monitor's website at [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier) or contact the Monitor, whose contact information is shown below.

Additional copies of the Proof of Claim may be found at the Monitor's website address noted above.

Please note that this is a guide only, and that in the event of any inconsistency between the terms of this guide and the terms of the Claims Procedure Order made on September 5, 2012 (the "Claims Procedure Order"), the terms of the Claims Procedure Order will govern.

#### SECTION 1 – DEBTOR

1. The full name of the Arctic Glacier Party or Parties against which the Claim is asserted must be listed (see footnote 1 for complete list of Arctic Glacier Parties).

#### SECTION 2(a) – ORIGINAL CLAIMANT

2. A separate Proof of Claim must be filed by each legal entity or person asserting a claim against the Debtor.
3. The Claimant shall include any and all Claims it asserts against the Debtor in a single Proof of Claim.
4. The full legal name of the Claimant must be provided.
5. If the Claimant operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
6. If the Claim has been assigned or transferred to another party, Section 2(b) must also be completed.
7. Unless the Claim is assigned or transferred, all future correspondence, notices, etc. regarding the Claim will be directed to the address and contact indicated in this section.
8. Certain Claimants are exempted from the requirement to file a Proof of Claim. Among those Claimants who do not need to file a Proof of Claim are persons whose Claims

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<sup>2</sup> Arctic Glacier Income Fund, Arctic Glacier Inc., Arctic Glacier International Inc., Arctic Glacier California Inc., Arctic Glacier Grayling Inc., Arctic Glacier Lansing Inc., Arctic Glacier Michigan Inc., Arctic Glacier Minnesota Inc., Arctic Glacier Nebraska Inc., Arctic Glacier Newburgh Inc., Arctic Glacier New York Inc., Arctic Glacier Oregon Inc., Arctic Glacier Party Time Inc., Arctic Glacier Pennsylvania Inc., Arctic Glacier Rochester Inc., Arctic Glacier Services Inc., Arctic Glacier Texas Inc., Arctic Glacier 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. and Glacier Valley Ice Company, L.P. (California) (collectively, the "Arctic Glacier Parties").

form the subject matter of the Indirect Purchaser Litigation, the Canadian Retail Litigation or the Direct Purchaser Litigation. Please consult the Claims Procedure Order for details with respect to these and other exemptions.

**SECTION 2(b) – ASSIGNEE**

9. If the Claimant has assigned or otherwise transferred its Claim, then Section 2(b) must be completed.
10. The full legal name of the Assignee must be provided.
11. If the Assignee operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
12. If the Monitor in consultation with the Debtor is satisfied that an assignment or transfer has occurred, all future correspondence, notices, etc. regarding the Claim will be directed to the Assignee at the address and contact indicated in this section.

**SECTION 3 - AMOUNT OF CLAIM OF CLAIMANT AGAINST DEBTOR**

13. Indicate the amount the Debtor was and still is indebted to the Claimant in the Amount of Claim column, including interest to October 31, 2012.

**Currency**

14. The amount of the Claim must be provided in the currency in which it arose.
15. Indicate the appropriate currency in the Currency column.
16. If the Claim is denominated in multiple currencies, use a separate line to indicate the Claim amount in each such currency. If there are insufficient lines to record these amounts, attach a separate schedule indicating the required information.
17. If necessary, currency will be converted in accordance with the Claims Procedure Order.

**Unsecured Claim**

18. Check this box ONLY if the Claim recorded on that line is an unsecured claim.

**Secured Claim**

19. Check this box ONLY if the Claim recorded on that line is a secured claim.

**SECTION 4 - DOCUMENTATION**

20. Attach to the Proof of Claim form all particulars of the Claim and supporting documentation, including amount, and description of transaction(s) or agreement(s), or legal breach(es) giving rise to the Claim, and amount of invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by the affected Debtor to the Claimant and estimated value of such security.

## SECTION 5 - CERTIFICATION

21. The person signing the Proof of Claim should:
- (a) be the Claimant or authorized representative of the Claimant.
  - (b) have knowledge of all the circumstances connected with this Claim.
  - (c) assert the Claim against the Debtor as set out in the Proof of Claim and certify all supporting documentation is attached.
  - (d) have a witness to its certification.
22. By signing and submitting the Proof of Claim, the Claimant is asserting the claim against the Debtor.

## SECTION 6 - FILING OF CLAIM

23. The Proof of Claim must be received by the Monitor by 5:00 p.m. (Winnipeg time) on October 31, 2012 (the "Claims Bar Date") by prepaid ordinary mail, registered mail, courier, personal delivery or electronic transmission at the following address:

**Alvarez & Marsal Canada Inc., Arctic Glacier Monitor**

**Address: Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900, P.O. Box 22  
Toronto, ON Canada M5J 2J1**

**Attention: Melanie MacKenzie and Joshua Nevsky**

**Email: mmackenzie@alvarezandmarsal.com, jnevsky@alvarezandmarsal.com**

**Fax No.: 416-847-5201**

**Failure to file your Proof of Claim so that it is actually received by the Monitor by 5:00 p.m., on the Claims Bar Date will result in your claim being barred and you will be prevented from making or enforcing a Claim against the Arctic Glacier Parties. In addition, you shall not be entitled to further notice in and shall not be entitled to participate as a creditor in the Arctic Glacier CCAA proceedings.**



**3 Amount of Claim**

The Debtor(s) was/were and still is/are indebted to the Claimant as follows:

Name(s) of Director(s), Officers and/or Trustee(s)	Currency	Amount of Claim (including interest to October 31, 2012)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**4. Documentation**

Provide all particulars of the claim and supporting documentation, including amount and description of transaction(s) or agreement(s) or legal breach(es) giving rise to the Claim.

**5. Certification**

I hereby certify that:

1. I am the Claimant or authorized representative of the Claimant.
2. I have knowledge of all the circumstances connected with this Claim.
3. The Claimant asserts this Claim against the Debtor(s) as set out above.
4. Complete documentation in support of this claim is attached.

Signature: _____	Witness:
Name: _____	(signature)
Title: _____	(print)
Dated at _____ this _____ day of _____, 2012	

**6. Filing of Claim**

This DO&T Proof of Claim must be received by the Monitor by 5:00 p.m. (Winnipeg time) on October 31, 2012 by prepaid ordinary mail, registered mail, courier, personal delivery or electronic transmission at the following address:

**Alvarez & Marsal Canada Inc., Arctic Glacier Monitor**  
**Address: Royal Bank Plaza, South Tower**  
**200 Bay Street, Suite 2900, P.O. Box 22**  
**Toronto, ON Canada M5J 2J1**

**Attention: Melanie MacKenzie and Joshua Nevksy**  
**Email: mmackenzie@alvarezandmarsal.com, jnevksy@alvarezandmarsal.com**  
**Fax No.: 416-847-5201**

For more information see [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier), or contact the Monitor by telephone (1-866-688-0510)

## SCHEDULE "D-2"

### CLAIMANT'S GUIDE TO COMPLETING THE DO&T PROOF OF CLAIM FORM FOR CLAIMS AGAINST DIRECTORS, OFFICERS OR TRUSTEES OF THE ARCTIC GLACIER PARTIES<sup>4</sup>

This Guide has been prepared to assist Claimants in filling out the DO&T Proof of Claim form for claims against the Directors, Officers or Trustees of the Arctic Glacier Parties. If you have any additional questions regarding completion of the DO&T Proof of Claim, please consult the Monitor's website at [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier) or contact the Monitor, whose contact information is shown below.

The DO&T Proof of Claim form is for Claimants asserting a claim against any Directors, Officers and/or Trustees of the Arctic Glacier Parties, and NOT for claims against the Arctic Glacier Parties themselves. For claims against the Arctic Glacier Parties, please use the form titled "Proof Of Claim Form For Claims Against The Arctic Glacier Parties", which is available on the Monitor's website at [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier).

Additional copies of the DO&T Proof of Claim may be found at the Monitor's website address noted above.

Please note that this is a guide only, and that in the event of any inconsistency between the terms of this guide and the terms of the Claims Procedure Order made on September 5, 2012 (the "Claims Procedure Order"), the terms of the Claims Procedure Order will govern.

#### SECTION 1 – DEBTOR

1. The full name of all the Arctic Glacier Party Directors, Officers or Trustees against whom the Claim is asserted must be listed.

#### SECTION 2(a) – ORIGINAL CLAIMANT

2. A separate DO&T Proof of Claim must be filed by each legal entity or person asserting a claim against the Arctic Glacier Party Directors, Officers or Trustees.
3. The Claimant shall include any and all DO&T Claims it asserts against the Arctic Glacier Party Directors, Officers or Trustees in a single DO&T Proof of Claim.
4. The full legal name of the Claimant must be provided.
5. If the Claimant operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.

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<sup>4</sup> Arctic Glacier Income Fund, Arctic Glacier Inc., Arctic Glacier International Inc., Arctic Glacier California Inc., Arctic Glacier Grayling Inc., Arctic Glacier Lansing Inc., Arctic Glacier Michigan Inc., Arctic Glacier Minnesota Inc., Arctic Glacier Nebraska Inc., Arctic Glacier Newburgh Inc., Arctic Glacier New York Inc., Arctic Glacier Oregon Inc., Arctic Glacier Party Time Inc., Arctic Glacier Pennsylvania Inc., Arctic Glacier Rochester Inc., Arctic Glacier Services Inc., Arctic Glacier Texas Inc., Arctic Glacier 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. And Glacier Valley Ice Company, L.P. (California) (collectively, the "Arctic Glacier Parties").

6. If the claim has been assigned or transferred to another party, Section 2(b) must also be completed.
7. Unless the claim is assigned or transferred, all future correspondence, notices, etc. regarding the claim will be directed to the address and contact indicated in this section.

#### **SECTION 2(b) – ASSIGNEE**

8. If the Claimant has assigned or otherwise transferred its claim, then Section 2(b) must be completed.
9. The full legal name of the Assignee must be provided.
10. If the Assignee operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.
11. If the Monitor in consultation with the Debtor(s) is satisfied that an assignment or transfer has occurred, all future correspondence, notices, etc. regarding the claim will be directed to the Assignee at the address and contact indicated in this section.

#### **SECTION 3 - AMOUNT OF CLAIM OF CLAIMANT AGAINST DEBTOR**

12. Indicate the amount the Director(s), Officer(s) and/or Trustee(s) was/were and still is/are indebted to the Claimant in the Amount of Claim column, including interest to October 31, 2012.

#### **Currency**

13. The amount of the claim must be provided in the currency in which it arose.
14. Indicate the appropriate currency in the Currency column.
15. If the claim is denominated in multiple currencies, use a separate line to indicate the claim amount in each such currency. If there are insufficient lines to record these amounts, attach a separate schedule indicating the required information.
16. If necessary, currency will be converted in accordance with the Claims Procedure Order.

#### **SECTION 4 - DOCUMENTATION**

17. Attach to the DO&T Proof of Claim form all particulars of the claim and supporting documentation, including amount and description of transaction(s) or agreement(s) or legal breach(es) giving rise to the claim.

#### **SECTION 5 - CERTIFICATION**

18. The person signing the DO&T Proof of Claim should:
  - (a) be the Claimant or authorized representative of the Claimant.
  - (b) have knowledge of all the circumstances connected with this claim.

(c) assert the claim against the Debtor(s) as set out in the DO&T Proof of Claim and certify all supporting documentation is attached.

(d) have a witness to its certification.

19. By signing and submitting the DO&T Proof of Claim, the Claimant is asserting the claim against the Debtor(s).

#### **SECTION 6 - FILING OF CLAIM**

20. The DO&T Proof of Claim must be received by the Monitor by 5:00 p.m. (Winnipeg time) on October 31, 2012 (the "Claims Bar Date") by prepaid ordinary mail, registered mail, courier, personal delivery or electronic transmission at the following address:

**Alvarez & Marsal Canada Inc., Arctic Glacier Monitor**

**Address: Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900, P.O. Box 22  
Toronto, ON Canada M5J 2J1**

**Attention: Melanie MacKenzie and Joshua Nevksy**

**Email: mmackenzie@alvarezandmarsal.com, jnevsky@alvarezandmarsal.com**

**Fax No.: 416-847-5201**

**Failure to file your DO&T Proof of Claim so that it is actually received by the Monitor by 5:00 p.m., on the Claims Bar Date will result in your claim being barred and you will be prevented from making or enforcing a claim against the Directors, Officers and Trustees of the Arctic Glacier Parties. In addition, you shall not be entitled to further notice in and shall not be entitled to participate as a creditor in the Arctic Glacier CCAA proceedings.**

**SCHEDULE "E"**

**PROOF OF CLAIM FORM FOR INDEMNITY CLAIMS BY  
DIRECTORS, OFFICERS OR TRUSTEES OF THE ARCTIC GLACIER PARTIES<sup>5</sup>  
(the "DO&T Indemnity Proof of Claim")**

This form is to be used only by Directors, Officers and Trustees of an Arctic Glacier Party who are asserting an indemnity claim against the Arctic Glacier Parties in relation to a DO&T Claim against them and NOT for claims against the Arctic Glacier Parties themselves or for claims against Arctic Glacier Directors, Officers and Trustees. For claims against the Arctic Glacier Parties, please use the form titled "Proof Of Claim Form For Claims Against the Arctic Glacier Parties". For claims against Arctic Glacier Directors, Officers and Trustees, please use the form titled "Proof of Claim Form for Claims Against Directors, Officers or Trustees of the Arctic Glacier Parties". Both forms are available on the Monitor's website at [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier).

**1. Director/Officer/Trustee Particulars (the "Indemnitee")**

Legal Name of  
Indemnitee \_\_\_\_\_

Address \_\_\_\_\_

Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

City \_\_\_\_\_

Prov  
/State \_\_\_\_\_

email \_\_\_\_\_

Postal/Zip  
Code \_\_\_\_\_

**2. Indemnification Claim**

Position(s)  
Held \_\_\_\_\_

Dates Position(s)

Held: From \_\_\_\_\_

to \_\_\_\_\_

Reference Number of Proof of Claim with respect to which this DO&T  
Indemnity Claim is made \_\_\_\_\_

Particulars of and basis for DO&T  
Indemnity Claim \_\_\_\_\_

<sup>5</sup> Arctic Glacier Income Fund, Arctic Glacier Inc., Arctic Glacier International Inc., Arctic Glacier California Inc., Arctic Glacier Grayling Inc., Arctic Glacier Lansing Inc., Arctic Glacier Michigan Inc., Arctic Glacier Minnesota Inc., Arctic Glacier Nebraska Inc., Arctic Glacier Newburgh Inc., Arctic Glacier New York Inc., Arctic Glacier Oregon Inc., Arctic Glacier Party Time Inc., Arctic Glacier Pennsylvania Inc., Arctic Glacier Rochester Inc., Arctic Glacier Services Inc., Arctic Glacier Texas Inc., Arctic Glacier 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. And Glacier Valley Ice Company, L.P. (California) (collectively, the "Arctic Glacier Parties").

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**3. Documentation**

Provide all particulars of the DO&T Indemnity Claim and supporting documentation giving rise to the Claim.

**4. Filing of Claim**

This DO&T Indemnity Proof of Claim and supporting documentation must be received by the Monitor within fifteen (15) Business Days of the date of deemed receipt by the Director, Officer or Trustee of the DO&T Proof of Claim form by **ordinary prepaid mail, registered mail, courier, personal delivery or electronic transmission at the following address:**

**Alvarez & Marsal Canada Inc., Arctic Glacier Monitor**

**Address: Royal Bank Plaza, South Tower  
200 Bay Street, Suite 2900, P.O. Box 22  
Toronto, ON Canada M5J 2J1**

**Attention: Melanie MacKenzie and Joshua Nevksy**

**Email: mmackenzie@alvarezandmarsal.com, jnevsky@alvarezandmarsal.com**

**Fax No.: 416-847-5201**

**Failure to file your DO&T Indemnity Proof of Claim in accordance with the Claims Procedure Order dated September 5, 2012 will result in your DO&T Indemnity Claim being barred and forever extinguished and you will be prohibited from making or enforcing such DO&T Indemnity Claim against the Arctic Glacier Parties.**

DATED at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2012

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

Signature: \_\_\_\_\_ (Former Director, Officer and/or Trustee)

For more information see [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier), or contact the Monitor by telephone (1-866-688-0510)

## SCHEDULE "F"

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### NOTICE OF REVISION OR DISALLOWANCE

**For Persons that have asserted Claims against the Arctic Glacier Parties<sup>6</sup>,  
DO&T Claims against the Directors, Officers and/or Trustees of the Arctic Glacier Parties  
or DO&T Indemnity Claims against the Arctic Glacier Parties**

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Claims Reference Number: \_\_\_\_\_

TO: \_\_\_\_\_  
(the "Claimant")

Defined terms not defined in this Notice of Revision or Disallowance have the meaning ascribed in the Order of the Court of Queen's Bench (Winnipeg Centre) in the CCAA proceedings of the Arctic Glacier Parties dated September 5, 2012 (the "Claims Procedure Order").

Pursuant to the Claims Procedure Order, the Monitor hereby gives you notice that it has reviewed your Proof of Claim, DO&T Proof of Claim or DO&T Indemnity Proof of Claim and has revised or disallowed all or part of your purported Claim, DO&T Claim or DO&T Indemnity Claim, as the case may be. Subject to further dispute by you in accordance with the Claims Procedure Order, your Proven Claim will be as follows:

	Amount as submitted		Amount allowed by Monitor
	Currency		
A. Unsecured Claim		\$	\$
B. Secured Claim		\$	\$
C. DO&T Claim		\$	\$
D. DO&T Indemnity Claim		\$	\$
<b>E. Total Claim</b>		<b>\$</b>	<b>\$</b>

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<sup>6</sup> Arctic Glacier Income Fund, Arctic Glacier Inc., Arctic Glacier International Inc., Arctic Glacier California Inc., Arctic Glacier Grayling Inc., Arctic Glacier Lansing Inc., Arctic Glacier Michigan Inc., Arctic Glacier Minnesota Inc., Arctic Glacier Nebraska Inc., Arctic Glacier Newburgh Inc., Arctic Glacier New York Inc., Arctic Glacier Oregon Inc., Arctic Glacier Party Time Inc., Arctic Glacier Pennsylvania Inc., Arctic Glacier Rochester Inc., Arctic Glacier Services Inc., Arctic Glacier Texas Inc., Arctic Glacier 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. and Glacier Valley Ice Company, L.P. (California) (collectively, the "Arctic Glacier Parties").

**Reasons for Revision or Disallowance:**

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**SERVICE OF DISPUTE NOTICES**

**If you intend to dispute this Notice of Revision or Disallowance, you must, no later than 5:00 p.m. (prevailing time in Winnipeg) on the day that is twenty-one (21) Calendar Days after this Notice of Revision or Disallowance is deemed to have been received by you (in accordance with paragraph 51 of the Claims Procedure Order), deliver a Dispute Notice to the Monitor by ordinary prepaid mail, registered mail, courier, personal delivery or electronic transmission to the address below.**

Alvarez & Marsal Canada Inc., Arctic Glacier Monitor

Address: Royal Bank Plaza, South Tower  
200 Bay Street  
Suite 2900  
P.O. Box 22  
Toronto, Ontario Canada  
M5J 2J1

Fax No.: 416-847-5201

Email: [mmackenzie@alvarezandmarsal.com](mailto:mmackenzie@alvarezandmarsal.com),  
[jnevsky@alvarezandmarsal.com](mailto:jnevsky@alvarezandmarsal.com)

Attention: Melanie MacKenzie and Joshua Nevksy

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Monitor upon actual receipt thereof by the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

The form of Dispute Notice is enclosed and can also be accessed on the Monitor's website at [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier).

**IF YOU FAIL TO FILE A DISPUTE NOTICE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Alvarez & Marsal Canada Inc., solely in its capacity as Court-appointed Monitor of the Arctic Glacier Parties, and not in its personal or corporate capacity

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

For more information see [www.alvarezandmarsal.com/arcticglacier](http://www.alvarezandmarsal.com/arcticglacier), or contact the Monitor by telephone (1-866-688-0510)



**APPENDIX "1" to SCHEDULE "F"**

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**NOTICE OF DISPUTE OF NOTICE OF REVISION OR DISALLOWANCE**

**With respect to the Arctic Glacier Parties<sup>7</sup>**

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Claims Reference Number: \_\_\_\_\_

**1. Particulars of Claimant:**

Full Legal Name of Claimant (include trade name, if different)

\_\_\_\_\_

(the "Claimant")

Full Mailing Address of the Claimant:

\_\_\_\_\_

\_\_\_\_\_

Other Contact Information of the Claimant:

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Attention (Contact Person): \_\_\_\_\_

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<sup>7</sup> Arctic Glacier Income Fund, Arctic Glacier Inc., Arctic Glacier International Inc., Arctic Glacier California Inc., Arctic Glacier Grayling Inc., Arctic Glacier Lansing Inc., Arctic Glacier Michigan Inc., Arctic Glacier Minnesota Inc., Arctic Glacier Nebraska Inc., Arctic Glacier Newburgh Inc., Arctic Glacier New York Inc., Arctic Glacier Oregon Inc., Arctic Glacier Party Time Inc., Arctic Glacier Pennsylvania Inc., Arctic Glacier Rochester Inc., Arctic Glacier Services Inc., Arctic Glacier Texas Inc., Arctic Glacier 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. And Glacier Valley Ice Company, L.P. (California) (collectively, the "Arctic Glacier Parties").

2. **Particulars of original Claimant from whom you acquired the Claim, DO&T Claim or DO&T Indemnity Claim, if applicable**

Have you acquired this purported Claim, DO&T Claim or DO&T Indemnity Claim by assignment?

Yes:

No:

If yes and if not already provided, attach documents evidencing assignment.

Full Legal Name of original Claimant(s): \_\_\_\_\_

3. **Dispute of Revision or Disallowance of Claim, DO&T Claim or DO&T Indemnity Claim, as the case may be:**

The Claimant hereby disagrees with the value of its Claim, DO&T Claim or DO&T Indemnity Claim, as the case may be, as set out in the Notice of Revision or Disallowance and asserts a Claim, DO&T Claim or DO&T Indemnity Claim, as the case may be, as follows:

	<b>Currency</b>	<b>Amount allowed by Monitor: (Notice of Revision or Disallowance)</b>	<b>Amount claimed by Claimant:<sup>8</sup></b>
<b>A. Unsecured Claim</b>		\$	\$
<b>B. Secured Claim</b>		\$	\$
<b>C. DO&amp;T Claim</b>		\$	\$
<b>D. DO&amp;T Indemnity</b>		\$	\$
<b>E. Total Claim</b>		\$	\$

<sup>8</sup> If necessary, currency will be converted in accordance with the Claims Procedure Order.

**REASON(S) FOR THE DISPUTE:**

*(Please attach all supporting documentation hereto).*

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**SERVICE OF DISPUTE NOTICES**

If you intend to dispute a Notice of Revision or Disallowance, you must, no later than 5 p.m. Winnipeg time on the day that is twenty-one (21) Calendar Days after the Notice of Revision or Disallowance is deemed to have been received by you (in accordance with paragraph 51 of the Claims Procedure Order), deliver this Dispute Notice to the Monitor by ordinary prepaid mail, registered mail, courier, personal delivery or electronic transmission to the address below.

Alvarez & Marsal Canada Inc., Arctic Glacier Monitor

Address: Royal Bank Plaza, South Tower  
200 Bay Street  
Suite 2900  
P.O. Box 22  
Toronto, Ontario Canada  
M5J 2J1

Fax No.: 416-847-5201

Email: [mmackenzie@alvarezandmarsal.com](mailto:mmackenzie@alvarezandmarsal.com), [jnevsky@alvarezandmarsal.com](mailto:jnevsky@alvarezandmarsal.com)

Attention: Melanie MacKenzie and Joshua Nevksy

In accordance with the Claims Procedure Order, notices shall be deemed to be received by the Monitor upon actual receipt thereof by the Monitor during normal business hours on a Business Day, or if delivered outside of normal business hours, on the next Business Day.

**IF YOU FAIL TO FILE THIS NOTICE OF DISPUTE OF NOTICE OF REVISION OR DISALLOWANCE WITHIN THE PRESCRIBED TIME PERIOD, THE NOTICE OF REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU.**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012

Name of Claimant: \_\_\_\_\_

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
Name:  
Title:  
*(please print)*

## **SCHEDULE "G" – Canadian Retail Litigation**

The following class actions, commenced in Canada, constitute the "Canadian Retail Litigation":

- Court File Nos. 0907-09552 and 1001-03548, Court of Queen's Bench of Alberta, Judicial Centre of Calgary,
- Ontario Court File No. 10-CV-14457, filed at the Ontario Superior Court of Justice, Windsor, Ontario, and
- Ontario Court File No. 62112CP filed at the Ontario Superior Court of Justice, London, Ontario.

## SCHEDULE "H" – Indirect Purchaser Litigation

The following class actions, commenced in the United States, constitute the "Indirect Purchaser Litigation":

No.	Description
1	<b>Consolidated Class Action Complaint</b> filed on May 25, 2011, in the <b>US District Court for the Eastern District of Michigan, Southern Division</b> , in Civil Action No. 2:08-MD-1952-PDB
2	<b>Class Action Complaint</b> filed on March 4, 2012, in the <b>Eighteenth Judicial District, District Court, Sedgwick County, Kansas, Civil Department</b> , in Case No. 11CV0877 (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 5, Case No. MDL-1952)
3	<b>Class Action Complaint</b> filed on January 12, 2012, in the <b>United States District Court, District of Massachusetts</b> , in Civil Action No. 1:12-cv-10072-N (transferred to the Consolidated Class Action Complaint by Conditional Transfer
4	<b>Class Action Complaint</b> filed on January 5, 2012, in the <b>United States District Court, District of Minnesota</b> , in Civil Action No. 12-CV-29 (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 7, Case No.
5	<b>Class Action Complaint</b> filed on January 5, 2012, in the <b>United States District Court, Northern District of Mississippi</b> , in Case No. 3:11-CV-092-M-A (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 7, Case No. MDL-1952)
6	<b>Class Action Complaint</b> filed on January 6, 2012, in the <b>United States District Court, District of Nebraska</b> , in Civil Action No. 8:12-cv-0007-FG3 (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 7, Case No. MDL-1952)
7	<b>Class Action Complaint</b> filed on February 2, 2012, in the <b>United States District Court, District of New Mexico</b> , in Civil Action No. 1:12-cv-00111 (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 8, Case No. MDL-1952)
8	<b>Class Action Complaint</b> filed on December 29, 2011, in the <b>United States District Court for the Middle District of North Carolina</b> , in Civil Action No. 1:11-cv-01152 (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 7, Case No. MDL-1952)

9	<b>Class Action Complaint</b> filed on January 17, 2012, in the <b>United States District Court for the District of Arizona</b> , in Civil Action No. 2:12-cv-00104-JAT (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 7, Case No. MDL-1952)
10	<b>Class Action Complaint</b> filed on January 4, 2012, in the <b>United States District Court, Northern District of Iowa—Western Division</b> , in Civil Action No. 5:12-cv-04004- MWB (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 7, Case No. MDL-1952)
11	<b>Class Action Complaint</b> filed on February 14, 2012, in the <b>United States District Court for the Northern District Mississippi</b> , in Civil Action No. 3:12-cv-00015-DAS (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 9, Case No. MDL-1952)
12	<b>Class Action Complaint</b> filed on January 31, 2012, in the <b>United States District Court for the Western District of Tennessee</b> , in Civil Action No. 2:11-cv-02345-STA (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 6, Case No. MDL-1952, listed in such Order as 2-11-02325)
13	<b>Class Action Complaint</b> filed on January 31, 2012, in the <b>United States District Court for the Eastern District of Arkansas</b> , in Civil Action No. 4:11-cv-0372-JLH (transferred to the Consolidated Class Action Complaint by Conditional Transfer Order No. 6, Case No. MDL-1952)

**SCHEDULE "I" –Direct Purchaser Litigation**

The following class actions constitute the "Direct Purchaser Litigation":

In re Packaged Ice Antitrust Litigation Direct Purchaser Class, as certified by the Eastern District of Michigan on December 13, 2011 (Dkt. No. 406, 08-md-1952 E.D. Mich.)

## 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., ARCTIC GLACIER INTERNATIONAL INC. and the ADDITIONAL APPLICANTS LISTED  
ON SCHEDULE "A" HERETO

(collectively, the "APPLICANTS")

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**ORDER**

**(Stay Extension & Appointment of Claims Officers)**

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**OSLER, HOSKIN & HARCOURT LLP**

Barristers and Solicitors  
P.O. Box 50, 100 King Street West  
1 First Canadian Place  
Toronto, ON M5X 1B8

**Marc Wasserman (LSUC#44066M)**

Tel: 416.862.4908  
Email: [mwasserman@osler.com](mailto:mwasserman@osler.com)

**Jeremy Dacks (LSUC#41851R)**

Tel: 416.862.4923  
Email: [jdacks@osler.com](mailto:jdacks@osler.com)

**TAYLOR McCAFFREY LLP**

Barristers & Solicitors  
9<sup>th</sup> Floor, 400 St. Mary Avenue  
Winnipeg MB R3C 4K5

**David R.M. Jackson**

Tel: 204.988.0375  
Email: [djackson@tmlawyers.com](mailto:djackson@tmlawyers.com)



Glacier LLC, Arctic Glacier Canada Inc. and Arctic Glacier USA Inc., counsel for the former Vice-President of sales of Arctic Glacier and a representative of Coliseum Capital Partnership LP, no one appearing for any other party although duly served as appears from the affidavit of service, filed:

**SERVICE**

1. THIS COURT ORDERS that the time for service of this Motion and the Tenth Report is hereby abridged and validated such that this Motion is properly returnable today and hereby dispenses with further service thereof.

**DEFINED TERMS**

2. THIS COURT ORDERS that all capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed thereto in the Tenth Report or in the Claims Procedure Order granted on September 5, 2012.

**STAY EXTENSION**

3. THIS COURT ORDERS that the Stay Period is hereby extended until June 14, 2013.

**RELEASE OF DIRECT PURCHASERS' ADVISORS' CHARGE**

4. THIS COURT ORDERS that the Direct Purchaser's Advisors' Charge (as such term is defined in the Order of this Court dated May 15, 2012) be and is hereby released and discharged and is of no further force and effect.

**APPOINTMENT AND POWERS OF CLAIMS OFFICERS**

5. THIS COURT ORDERS that, in addition to terms defined elsewhere herein, the term "**Claims Officer**" means the individuals designated by the Court or the Monitor pursuant to paragraphs 6 or 7 of this Order.

6. THIS COURT ORDERS that Mr. Dave Hill and the Honourable Jack Ground, and such other Persons as may be appointed by the Court from time to time on application of the Monitor (in consultation with the Arctic Glacier Parties), be and they are hereby appointed as Claims Officers for the claims resolution procedure described herein.

7. THIS COURT ORDERS that further Claims Officers may be appointed by the Monitor to deal with a specific Claim or DO&T Claim, with the consent of the Arctic Glacier Parties and the Creditor asserting the Claim, to resolve such Creditor's disputed Claim(s) and/or DO&T Claim(s) in accordance with this Order.

8. THIS COURT ORDERS that, subject to the appeal rights set out herein, a Claims Officer shall have the exclusive authority to determine the validity and value of disputed Claims and/or DO&T Claims, as the case may be, including, without limitation, determining questions of law, fact, and mixed law and fact, in accordance with this Order, and to the extent necessary may determine whether any Claim and/or DO&T Claim, as the case may be, or part thereof constitutes an Excluded Claim. A Claims Officer shall determine any and all procedural matters which may arise in respect of his or her determination of disputed Claims and/or DO&T Claims, including ordering the production of documents and such discovery as may be appropriate, as well as the manner in which any evidence may be adduced. A Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before the Claims Officer shall be paid.

9. THIS COURT ORDERS that the Claims Officers shall be entitled to reasonable compensation for the performance of their obligations set out in this Order on the basis of the hourly rate customarily charged by the Claims Officers in performing comparable functions to those set out in this Order and any disbursements incurred in connection therewith. The fees and expenses of the Claims Officers shall be borne by the Arctic Glacier Parties and shall be paid by the Arctic Glacier Parties forthwith upon receipt of each invoice tendered by the Claims Officers.

10. THIS COURT ORDERS that any special claims officer appointed in accordance with paragraph 47 of the Claims Procedure Order (the "**Special Claims Officer**") shall have the same powers, rights, protections and obligations as are granted to a Claims Officer appointed in accordance with this Order.

#### **RESOLUTION OF CLAIMS BY CLAIMS OFFICER OR THE COURT**

11. **THIS COURT ORDERS** that in the event that a dispute raised in a Dispute Notice is not settled within a time period or in a manner satisfactory to the Monitor, in consultation with the Arctic Glacier Parties and the applicable Creditor, the Monitor shall refer the dispute raised in the

Dispute Notice either to a Claims Officer or to the Court (or, in the case of a Class Claim of the Indirect Purchaser Claimants, to a Special Claims Officer) for adjudication. The decision as to whether the Claim and/or DO&T Claim should be adjudicated by a Claims Officer or by the Court shall be in the sole discretion of the Monitor.

12. **THIS COURT ORDERS** that to the extent a Claim and/or DO&T Claim is referred under paragraph 11 to a Claims Officer, the Claims Officer shall resolve the dispute between the Arctic Glacier Parties, any Director, Officer or Trustee to the extent that a DO&T Claim is asserted as against them, and the Creditor, as soon as practicable.

13. **THIS COURT ORDERS** that any of the Monitor, a Creditor, a Director, Officer or Trustee to the extent that a DO&T Claim is asserted as against them, or an Arctic Glacier Party may, within fourteen (14) Calendar Days of notification of a Claims Officer's determination in respect of such Creditor's Claim and/or DO&T Claim, appeal such determination to this Court by filing a notice of appeal, and the appeal shall be initially returnable within fourteen (14) Calendar Days from the filing of such notice of appeal, such appeal to be an appeal based on the record before the Claims Officer and not a hearing *de novo*.

14. **THIS COURT ORDERS** that if no party appeals the determination of a Claim and/or DO&T Claim by a Claims Officer within the time set out in paragraph 13 above, the decision of the Claims Officer in determining the validity and value of the Claim and/or DO&T Claim shall be final and binding upon the relevant Arctic Glacier Party, the Monitor, a Director, Officer or Trustee to the extent that a DO&T Claim is asserted as against them, and the Creditor and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer's final determination of the Claim and/or DO&T Claim.

#### **MONITOR'S ROLE**

15. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA, the Initial Order, the Claims Procedure Order, the Transition Order dated July 12, 2012 (the "**Transition Order**"), and any other order of the Court in the CCAA Proceedings, is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order or incidental thereto.

16. THIS COURT ORDERS that (i) in carrying out the terms of this Order, the Monitor shall have all of the protections given to it by the CCAA, the Initial Order, other orders in the CCAA Proceeding, and this Order, or as an officer of the Court, including the stay of proceedings in its favour, (ii) the Monitor shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, (iii) the Monitor shall be entitled to rely on the books and records of the Arctic Glacier Parties and any information provided by the Arctic Glacier Parties, the Purchaser under the Transition Services Agreement as approved by the Transition Order, or any of their respective employees or former employees, all without independent investigation, and (iv) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

#### GENERAL PROVISIONS

17. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, including the United States Bankruptcy Court for the District of Delaware, or in any other foreign jurisdiction, 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 the 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.

**L. SPIVAK**

J.

DATE: *March 8, 2013.*

**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.

## Appendix D



**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
(Commenced at Windsor)

THE HONOURABLE ) THURSDAY, THE 6TH  
JUSTICE LEITCH ) DAY OF SEPTEMBER, 2013

B E T W E E N:

LOUISE KNOWLES c.o.b. as SPECIAL EVENTS MARKETING

Plaintiff

- and -

ARCTIC GLACIER, INC., KEITH E. CORBIN  
and REDDY ICE HOLDINGS, INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**  
**(Settlement Approval and Dismissal)**

**THIS MOTION** made by the Ontario Plaintiff for an Order approving the Settlement Agreement entered into with the Defendants, Arctic Glacier, Inc. and Reddy Ice Holdings, Inc. was heard this day at the Court House, 80 Dundas Street, London, Ontario.

**ON READING** the materials filed, including:

- a) the Settlement Agreement attached to this Order as **Schedule "A"**;
- b) the affidavit of Heather Rumble Peterson sworn August 29, 2013; and
- c) the affidavit of Louise Knowles sworn August 30, 2013 and .

**ON HEARING** the submissions of counsel for the Ontario Plaintiff and counsel for each of the Defendants, Arctic Glacier, Inc. and Reddy Ice Holdings, Inc (together the "Defendants" as this Ontario Proceeding was previously dismissed against the Defendant Keith E. Corbin),

**ON BEING ADVISED** that the Ontario Plaintiff and the Defendants, Arctic Glacier and Reddy Ice Holdings, Inc., have entered into a Settlement Agreement with an effective date of May 4, 2011 which is subject to the approval of the Ontario Court,

**AND ON BEING ADVISED** that the Ontario Plaintiff and the Defendants, Arctic Glacier and Reddy Ice Holdings, Inc. consent to this Order,

**AND** without any admission of liability on the part of either Defendant, each Defendant having denied liability,

***DEFINITIONS***

1. **THIS COURT ORDERS** that for the purposes of this Order the definitions set out in the Settlement Agreement attached hereto as **Schedule "A"** apply to and are incorporated into the Order.

***SETTLEMENT APPROVAL***

2. **THIS COURT DECLARES** that the proposed settlement, as set out in the Settlement Agreement which is incorporated by reference into this Order, is fair and reasonable and in the best interests of the Class Members.

3. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to s. 29 of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.

4. **THIS COURT DECLARES** that the Settlement Agreement is binding upon the Representative Plaintiff, and on each Class Member who did not validly opt out of this Ontario Proceeding in accordance with the Order of Madam Justice Leitch dated July 11, 2013 including those persons who are minors or mentally incapable, and that the requirements of Rules 7.04(1) and 7.08(4) of the Rules of Civil Procedure are dispensed with in respect of this Motion and Order.

**RELEASES**

5. **THIS COURT ORDERS AND DECLARES** that, upon the Effective Date, each Releasor will release and shall be conclusively deemed to have fully, finally and forever released the Releasees from the Released Claims.

6. **THIS COURT ORDERS** that, upon the Effective Date, the Releasees will release and shall be conclusively deemed to have fully, finally and forever released each other from any and all claims for contribution and indemnity with respect to the Released Claims.

7. **THIS COURT ORDERS** that, upon the Effective Date, each Releasor shall not then or thereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasee or any other Person who may claim contribution or indemnity, or other claims over relief, from any Releasee in respect of any Released Claim or any matter related thereto.

**ADMINISTRATION AND DISTRIBUTION OF SETTLEMENT FUND**

8. **THIS COURT ORDERS** that the Defendants, Arctic Glacier Inc. and Reddy Ice Holdings, Inc. shall have no responsibility or liability relating to the administration of the Settlement Agreement or the investment or distribution of the Account.

9. **THIS COURT ORDERS** that each Chain/Banner Entity receiving a Settlement Share shall utilize, and if necessary distribute, the Settlement Share paid to it within its Chain/Banner Group in a manner which is generally consistent with the pattern of purchases of Packaged Ice made by the Chain/Banner Entity and/or its Chain/Banner Group from Arctic, its parents, subsidiaries and affiliates during the Class Period.

10. **THIS COURT ORDERS** that neither the Plaintiff nor either Defendant shall have any responsibility for, or liability to any other person or entity regarding, the manner in which any Chain/Banner Entity complies or fails to comply with paragraph 9 of this Order.


**OTHER MATTERS**

11. **THIS COURT DECLARES** that for the purposes of administration of this Order, this Ontario Court will retain an ongoing supervisory role and the Defendants, Arctic Glacier Inc. and Reddy Ice Holdings, Inc. acknowledge the jurisdiction of the Ontario Court to implement, administer and enforce the Settlement Agreement.

12. **THIS COURT DECLARES** that this Order shall be declared null and void on subsequent motion made on notice to each party in the event that:

- a) payment of the Settlement Amount is not made under section 3.1(a) of the Settlement Agreement; or
- b) the Settlement Agreement is terminated in accordance with its terms.

13. **THIS COURT ORDERS AND ADJUDGES** that, except as aforesaid, the Ontario Proceeding be and is hereby dismissed against the Defendants, Arctic Glacier Inc. and Reddy Ice Holdings, Inc. without costs and with prejudice.

  
\_\_\_\_\_  
Justice Leitch

ENTERED AT WINDSOR	
In Book No.	<u>14</u>
re Document No.	<u>1163</u>
on	<u>13 SEPT 20 13</u>
by	<u>AL</u>

KNOXVILLE

Plaintiff

vs. ARCTIC GLACIER, INC. et al.

Defendants

Court File No. CV-10-14457

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT WINDSOR

Proceeding Under the *Class Proceedings Act, 1992*

**ORDER**

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LAWYERS FOR THE PLAINTIFFS

FILE: 73.149.000  
REF: HTS/sw

## Appendix F

**Minutes of Settlement**

**(made as of June 19, 2013)**

WHEREAS Arctic Glacier Income Fund and its subsidiaries (the “**Arctic Glacier Parties**”) sought and obtained an Initial Order dated February 22, 2012 under the *Companies’ Creditors Arrangement Act* from the Manitoba Court of Queen’s Bench (the “**Court**”).

AND WHEREAS Alvarez & Marsal Canada Inc. was appointed as Monitor (**the “Monitor”**) of the Arctic Glacier Parties pursuant to the Initial Order.

AND WHEREAS Desert Mountain Ice, LLC (“**Desert Mountain**”) filed in the Court and served a notice of motion dated October 15, 2012 seeking, *inter alia*, payment of a deemed purchase option purchase price as set out in section 24 of a lease (the “**Arizona Lease**”) dated May 25, 2006 between Desert Mountain and Arctic Glacier California Inc., one of the Arctic Glacier Parties (the “**Desert Mountain Motion**”).

AND WHEREAS Desert Mountain filed a Proof of Claim dated October 29, 2012 and a Director, Officer or Trustee Proof of Claim dated October 29, 2012 (collectively, the “**Desert Mountain Proofs of Claim**”) in the Claims Process established for the Arctic Glacier Parties by Order of the Court dated September 5, 2012.

AND WHEREAS Mr. Robert Nagy, the Chief Executive Officer of Desert Mountain, filed a Proof of Claim (the “**Nagy Proof of Claim**”) dated October 30, 2012 in the Claims Process which included therein a claim for an amount of US\$500,000 in respect of his personal guarantee of the Arizona Lease and a claim for an amount of US\$48,000 in respect of a life insurance policy related to the Arizona Lease (collectively, as to those amounts only, the “**Guarantee Proof of Claim**”, and collectively with the Desert Mountain Proofs of Claim and the Nagy Proof of Claim, the “**Proofs of Claim**”).

AND WHEREAS a mediation of the Desert Mountain Motion was held on June 19, 2013 before the Honourable Mr. Justice Martin pursuant to the Court's Judicially Assisted Dispute Resolution Process.

AND WHEREAS Desert Mountain, Robert Nagy, the Arctic Glacier Parties and the Monitor have agreed to settle and resolve as between them any and all matters related to the Desert Mountain Motion, the Arizona Lease and the Proofs of Claim, subject to Court approval as hereafter provided, on the following terms:

1. Payment from the monies currently being held by the Monitor shall be made to Fillmore Riley LLP in trust on behalf of Desert Mountain in the amount of US\$1,250,000 (the "**Settlement Amount**"), within 7 business days of Court approval of this settlement, in full and final satisfaction of all matters and claims set out in the Desert Mountain Motion. Fillmore Riley LLP shall not distribute the Settlement Amount to Desert Mountain until the court filings set out in paragraphs 4(a) and (c) below have been made to the satisfaction of the Monitor, acting reasonably.
2. The Monitor shall accept the Nagy Proof of Claim in the aggregate amount of CDN\$ 690,000 as a "Proven Claim" in the Claims Process. Subject to receiving a distribution or other Order of the Court, the Proven Claim of Robert Nagy shall be paid out to Robert Nagy on the first distribution of monies payable to creditors of the Arctic Glacier Parties, such payment calculated to be equal to the percentage entitlement of each approved creditor in the Claims Process.
3. Desert Mountain, Robert Nagy, the Arctic Glacier Parties and the Monitor shall exchange mutual releases in form and content satisfactory to each party, whereby each party shall



release any and all matters that were raised in the Desert Mountain Motion and the Proofs of Claim.

4. Upon the making of the payment set out in paragraph 1 above and the exchange of mutual releases with respect to the Desert Mountain Motion, the Desert Mountain Proofs of Claim, and the Guarantee Proof of Claim set out in paragraph 3 above:

(a) the Desert Mountain Motion shall be and be deemed to be abandoned with prejudice and without costs to any party. The parties shall co-operate with all necessary court filings to effect such abandonment;

(b) The Guarantee Proof of Claim and the Desert Mountain Proofs of Claim shall be deemed to be automatically withdrawn with prejudice from the Claims Process without the need for any further act or formality by Desert Mountain, Robert Nagy or the Monitor; and

(c) Desert Mountain shall immediately take all steps necessary, with the consent of the Monitor and the Arctic Glacier Parties, to dismiss, with prejudice and without costs to any party, its appeal of the Order of the United States Bankruptcy Court for the District of Delaware dated July 17, 2012, *inter alia*, recognizing the Amended and Restated Approval and Vesting Order of the Court dated July 12, 2012. The parties shall co-operate with all necessary court filings to effect such dismissal.

5. The parties agree to co-operate and use their best efforts to effectuate this settlement, including the Monitor and the Arctic Glacier Parties, as applicable, obtaining Court approval for this settlement, on the next scheduled stay extension hearing before the

Court being October 16, 2013 or such earlier date as the parties hereto may agree and the Court may permit. The parties agree that the settlement contained in these Minutes of Settlement is conditional on a Court Order being obtained, on notice to the Service List maintained for the CCAA Proceedings of the Arctic Glacier Parties, providing for the abandonment of the Desert Mountain Motion with prejudice and without costs to any party. Subject to extension by the parties acting reasonably, this agreement is conditional on Court approval being obtained by October 31, 2013.

SIGNED this 7<sup>th</sup> day of October, 2013.

Fillmore Riley LLP

Per: 

Solicitors for Desert Mountain Ice, LLC  
and Robert Nagy

McCarthy Tetrault LLP

Per: 

Solicitors for the Arctic Glacier Parties

Osler, Hoskin & Harcourt LLP

Per: 

Solicitors for Alvarez & Marsal Canada Inc.,  
in its capacity as Court-appointed Monitor  
of the Arctic Glacier Parties