

**TAB 3**

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

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

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

(collectively, the "Applicants")

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

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**INITIAL ORDER**

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

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

THE HONOURABLE MADAM  
JUSTICE SPIVAK

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WEDNESDAY, THE 22nd  
DAY OF FEBRUARY, 2012

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

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

(collectively, the "Applicants")

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

**INITIAL ORDER**

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at the Law Courts Building at 408 York Avenue, in The City of Winnipeg, in the Province of Manitoba.

ON READING the affidavit of Keith McMahon sworn February 21, 2012 and the Exhibits thereto (the "McMahon Affidavit"), and on being advised that CPPIB Credit Investments Inc., or any successor thereto (the "Agent"), as the Administrative Agent on behalf of the secured lenders to the Applicants (the "Secured Lenders") consents to the relief requested in this Application, and on being advised that notice of this Application

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

**SERVICE**

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

**APPLICATION**

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

**PLAN OF ARRANGEMENT**

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

**POSSESSION OF PROPERTY AND OPERATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **RESTRUCTURING**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19. THIS COURT ORDERS AND DIRECTS the Arctic Glacier Parties to immediately commence a Sale and Investor Solicitation Process attached hereto as Schedule "B" to this Order (the "SISP") for the purpose of offering the opportunity for

potential investors to purchase or invest in the business and operations of the Arctic Glacier Parties as a going concern or to sponsor a Plan.

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

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

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

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

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

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

**APPOINTMENT OF CHIEF PROCESS SUPERVISOR**

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

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

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

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

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

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

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

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

**NO EXERCISE OF RIGHTS OR REMEDIES**

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

**NO INTERFERENCE WITH RIGHTS**

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

**CONTINUATION OF SERVICES**

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

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

#### **CRITICAL SUPPLIERS**

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

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

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

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

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



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

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

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

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

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

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

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

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

#### **APPOINTMENT OF MONITOR**

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **DIP FINANCING**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Sixth – The Inter-Company Balances Charge.

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

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

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

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

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

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

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

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

63. THIS COURT ORDERS that the KERP, the Financial Advisor Engagement and the DIP Fee Letter, which are attached as Confidential Exhibits 1, 2 and 3, respectively, to the McMahon Affidavit, shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these

proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of the Court.

#### **SERVICE AND NOTICE**

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

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

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

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

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

#### GENERAL

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

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

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



**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.  

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Mountain Water Ice Company  
R&K Trucking, Inc.  
Winkler Lucas Ice and Fuel Company  
Wonderland Ice, Inc.

**SCHEDULE "B" - Sale and Investor Solicitation Process**

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## Schedule "[•]"

### Arctic Glacier Sale and Investor Solicitation Process

#### Introduction

On February 9, 2012, Arctic Glacier Income Fund ("AGIF") and its subsidiaries listed on Appendix "A" hereto (sometimes referred to collectively as the "Applicants") obtained an initial order (the "Initial Order") under the *Companies' Creditors Arrangement Act* ("CCAA") from the Manitoba Court of Queen's Bench (the "Court"). As part of the Initial Order, the Court approved the Sale and Investor Solicitation Process set forth herein (the "SISP"). The purpose of the SISP is to seek Sale Proposals and Investment Proposals from Qualified Bidders and to implement one or a combination of them in respect of the Property and the Business.

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

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

#### Defined Terms

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



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

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

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

#### **Sale and Investment Opportunity**

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

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

**"As Is, Where Is"**

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

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

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

**Publication Notice**

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

**Participation Requirements**

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

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

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

### SISP – Phase 1

#### Phase 1 Initial Timing

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

#### Due Diligence

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

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

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

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

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

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

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

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

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

#### Due Diligence

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

#### Final Bids from Qualified Bidders

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

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

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

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

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

#### Qualified Bids

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

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



- (g) it fully discloses the identity of each entity that will be sponsoring or participating in the bid, and the complete terms of such participation;
  - (h) it outlines any anticipated regulatory and other approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining such approvals;
  - (i) it identifies with particularity the contracts and leases the bidder wishes to assume and reject, contains full details of the bidder's proposal for the treatment of related cure costs (and provides adequate assurance of future performance thereunder); and it identifies with particularity any executory contract or unexpired lease the assumption and assignment of which is a condition to closing;
  - (j) it provides a timeline to closing with critical milestones;
  - (k) it includes evidence, in form and substance reasonably satisfactory to the Monitor and the Applicants, of authorization and approval from the bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the bid;
  - (l) except in the case of a Credit Bid, it is accompanied by a refundable deposit (the "Deposit") in the form of a wire transfer (to a bank account specified by the Monitor), or such other form acceptable to the Monitor, payable to the order of the Monitor, in trust, in an amount equal to \$10 million, to be held and dealt with in accordance with the terms of this SISP;
  - (m) it contains other information reasonably requested by the Financial Advisor, in consultation with the Monitor, the CPS and Arctic;
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- (n) except in the case of a Credit Bid (unless otherwise specified herein), it is received by the Phase 2 Bid Deadline;
  - (o) except in the case of a Credit Bid, the purchase price or funds to be invested will be in an amount sufficient to pay the Lender Claims, as calculated on the closing of the transaction contemplated by the Final Bid, in full and in cash, and shall provide that no such closing shall occur unless such payment in full of the Lender Claims is made concurrently;
  - (p) the Monitor determines that in its reasonable business judgment that it is likely that the Qualified Bidder will be able to consummate a Sale Proposal or Investment Proposal on or before the Outside Date in a manner that complies with all requirements of the SISP, including, without limitation, payment in full of the Lender Claims;
  - (q) in the case of a Sale Proposal, it includes the following:
    - (i) an acknowledgement and representation that the bidder: (a) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its bid; and (b) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the purchase and sale agreement; and

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

**Evaluation and Selection of Successful Bid**

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

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

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

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

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

##### **No Derogation**

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

##### **Deposits**

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

**Approvals**

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

**No Amendment**

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

**Address for Notices and Deliveries**

To the Monitor:

Alvarez & Marsal Canada Inc.

Attn: [Richard Morawetz and Adam Zalev]

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

Facsimile:

Email: [rmorawetz@alvarezandmarsal.com](mailto:rmorawetz@alvarezandmarsal.com)/[azalev@alvarezandmarsal.com](mailto:azalev@alvarezandmarsal.com)

To the Financial Advisor:

TD Securities Inc.

66 Wellington Street West

9th Floor

Toronto, ON M5K 1A2

Attn: Art Chipman, Managing Director

Direct Dial: 416.308.3099

Facsimile: 416.308.0182

E-mail: [art.chipman@tdsecurities.com](mailto:art.chipman@tdsecurities.com)

Attn: Atif Zia, Vice President and Director

Direct Dial: 416.307.9921

Facsimile: 416.308.0182

E-mail: [atif.zia@tdsecurities.com](mailto:atif.zia@tdsecurities.com)

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To the Applicants:

625 Henry Avenue,

Winnipeg, MB R3A 0V1

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

Direct Dial: 204-772-2473

Facsimile: 204-783-9857

E-mail: [kmcmahon@arcticglacier.com](mailto:kmcmahon@arcticglacier.com)

**SCHEDULE "C" - Critical Suppliers**

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**Canadian Critical Supplier List  
Feb 2012**

<b>Vendor Name</b>	<b>Vendor Type</b>
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**Distributor/Co-Packer**

Black's Ice Co Inc	Distributor/ Co-Packer
Boite a Glace	Distributor/ Co-Packer
Christian Dugas	Distributor/ Co-Packer
Glace Laurentide	Distributor/ Co-Packer
Lake Ontario Ice	Distributor/ Co-Packer
Lecoupe Ice	Distributor/ Co-Packer
North Star Ice	Distributor/ Co-Packer
Richard Boutin Inc	Distributor/ Co-Packer
Sylvain Lane Distribution	Distributor/ Co-Packer
Transport ML	Distributor/ Co-Packer
Valere D'Anjou Inc	Distributor/ Co-Packer

**Utility Suppliers**

Hydro-Quebec	Utility
PAP BC Hydro	Utility
PAP Chatham-Kent Utility Services	Utility
PAP Cogeco	Utility
PAP Direct Energy	Utility
PAP Enbridge	Utility
PAP Enersource	Utility
PAP Enmax	Utility
PAP Epcor	Utility
PAP Fortis BC	Utility
PAP Horizon Utilities	Utility
PAP Hydro One	Utility
PAP Hydro Quebec	Utility
PAP MB Hydro	Utility
PAP Nexen	Utility
PAP Primus	Utility
PAP TeraGo Networks Inc.	Utility
PAP TransAlta Energy Marketing	Utility
PAP UnionGas	Utility
TransAlta Energy Marketing	Utility

**Fuel suppliers**

4 Refuel Canada LP	Fuel
Centex Petroleum	Fuel
Husky Oil Marketing Company	Fuel
Iberic Oil Co Ltd	Fuel
Imperial Oil	Fuel

**Canadian Critical Supplier List  
Feb 2012**

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

**Vehicle Rental and Transport**

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



**Canadian Critical Supplier List  
Feb 2012**

<b>Vendor Name</b>	<b>Vendor Type</b>
Target Transport Ltd	Vehicle & Transport
Trans-Go Logistique Inc.	Vehicle & Transport
VeZina Assurances Inc	Vehicle & Transport
Western Toronto Idealease	Vehicle & Transport
Western Toronto International Trucks Inc	Vehicle & Transport

**Inventory and Ice Storage Suppliers (including packaging)**

Z740-5364 Quebec Inc	Inventory
BlizzArt Sculpture Enr	Inventory
Bols De Foyer IGL Inc	Inventory
Canadian Gold Beverages Inc	Inventory
Canadian Paper & Packaging Co Inc	Inventory
Chep Equipment Pooling Systems	Inventory
Emballages Clef Inc	Inventory
Entrepot Frigorifique International Inc	Inventory
Hood Packaging Corporation	Inventory
Millard Refrigerated Services	Inventory
Millennium Flexible Packaging	Inventory
Mr Iceman Ltd	Inventory
Norampac	Inventory
NorCan Flexible Packaging Inc	Inventory
Praxair Distribution	Inventory
Trenton Cold Storage Inc	Inventory
Versacold Group Services LLC	Inventory
Versacold Logistics Canada Inc	Inventory

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

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

**Equipment Providers**

6108947 Manitoba Ltd	Equipment
Advanced Refrigeration HVAC Inc	Equipment

**Canadian Critical Supplier List  
Feb 2012**

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

