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

In re

Chapter 15

ARCTIC GLACIER INTERNATIONAL INC., : et al., 1

Case No. 12-10605 (KG)

(Jointly Administered)

Debtors in a Foreign Proceeding.

Hearing Date: July 17, 2012 at 10:00 a.m. (ET) Objection Deadline: July 10, 2012 at 4:00 p.m. (ET)

#### **NOTICE OF SEALING MOTION**

PLEASE TAKE NOTICE that Alvarez & Marsal Canada Inc., in its capacity as the court-appointed monitor and authorized foreign representative (the "Monitor") of the abovecaptioned debtors (collectively, the "Debtors") in a proceeding under Canada's Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended, pending before the Court of Queen's Bench Winnipeg Centre, has filed the attached Motion of the Monitor for an Order Authorizing the Filing Under Seal of: (I) Certain Provisions of the Purchase Agreement; and (II) the Confidential Appendix to the Fourth Report of the Monitor (the "Sealing Motion"). A copy of the Sealing Motion is annexed hereto as Exhibit 1.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Sealing Motion (the "Hearing") will be held on July 17, 2012 at 10:00 a.m. (ET) before the Honorable Kevin Gross at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 6th Floor, Courtroom No. 3, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that any objections to the Sealing Motion must be filed on or before July 10, 2012 at 4:00 p.m. (ET) (the "Objection Deadline") with the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must serve a copy of the

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



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objection so as to be actually received by the following parties on or before the Objection Deadline: (i) Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019 (Attn: Marc Abrams, Mary K. Warren, and Alex W. Cannon); (ii) Osler, Hoskin & Harcourt LLP, 100 King Street West, Suite 6100, Toronto, Ontario, Canada M5X 1B8 (Attn: Marc Wasserman and Jeremy Dacks); (iii) Young Conway Stargatt & Taylor LLP, 1000 North King Street, Wilmington, Delaware 19801 (Attn: Robert S. Brady and Matthew P. Lunn); (iv) Jones Day, 2727 North Harwood Street, Chicago, Illinois 60601-1692 (Attn: Gregory M. Gordon and Daniel P. Winikka); (v) McCarthy Tétrault LLP, 66 Wellington Street West, Suite 5300, Toronto, Ontario, Canada M5K 1E6 (Attn: Kevin P. McElcheran); (vi) Ropes & Gray LLP, 1211 Avenue of the Americas, New York, New York 10036-8704 (Attn: Mark Bane and Darren Azman); (vii) Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario, Canada M5L 1B9 (Attn: Elizabeth Pillon).

PLEASE TAKE FURTHER NOTICE that you need not appear at the Hearing if you do not object to the relief request in the Sealing Motion.

**PLEASE TAKE FURTHER NOTICE** that the Hearing may be continued or adjourned from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing or at a later hearing.

PLEASE TAKE FURTHER NOTICE THAT, IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE SEALING MOTION WITHOUT FURTHER NOTICE OR A HEARING.

PLEASE TAKE FURTHER NOTICE that additional copies of the Sealing Motion are available: (a) by accessing the Bankruptcy Court's Electronic Case Filing System, which can be accessed from the Bankruptcy Court's website at <a href="https://ecf.deb.uscourts.gov">https://ecf.deb.uscourts.gov</a> (a PACER login and a password are required to retrieve a document); (b) from the Monitor's website <a href="http://www.alvarezandmarsal.com/arcticglacier">http://www.kccllc.net/ArcticGlacier</a> (without cost); or (c) upon written request to the Monitor's counsel (by email or facsimile) addressed to: Young Conaway Stargatt & Taylor LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, (Attn.: Melissa Romano, e-mail: mromano@ycst.com or Facsimile 302-576-3450) (without cost).

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### Dated: June 26, 2012 Wilmington, Delaware

#### YOUNG CONAWAY STARGATT & TAYLOR, LLP

#### /s/ Matthew B. Lunn

Robert S. Brady (No. 2847) Matthew B. Lunn (No. 4119) Ryan M. Bartley (No. 4985) Ian J. Bambrick (No. 5455) Rodney Square 1000 North King Street Wilmington, Delaware 19801 Telephone: (302) 571-6600 Facsimile: (302) 571-1253

- and -

WILLKIE FARR & GALLAGHER LLP Marc Abrams Mary K. Warren Alex W. Cannon 787 Seventh Avenue New York, New York 10019-6099 Telephone: (212) 728-8000

Facsimile: (212) 728-8111

Co-Counsel to the Monitor and Foreign Representative

# EXHIBIT 1

**Sealing Motion** 

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

In re

Chapter 15

ARCTIC GLACIER INTERNATIONAL INC.,

Case No. 12-10605 (KG)

et al.. 1

(Jointly Administered)

Debtors in a Foreign Proceeding.

Hearing Date: July 17, 2012 at 10:00 a.m. Objection Deadline: July 10, 2012 at 4:00 p.m.

MOTION OF THE MONITOR FOR AN ORDER AUTHORIZING THE FILING UNDER SEAL OF: (I) CERTAIN PROVISIONS OF THE PURCHASE AGREEMENT; AND (II) THE CONFIDENTIAL APPENDIX TO THE FOURTH REPORT OF THE MONITOR

Alvarez & Marsal Canada Inc., in its capacity as the court-appointed monitor and authorized foreign representative (the "Monitor") for the above-captioned debtors (collectively, the "Debtors") in a proceeding (the "Canadian Proceeding") commenced under Canada's Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA"), and pending before the Court of Queen's Bench of Winnipeg Centre (the "Canadian Court"), files this motion (the "Motion") for entry of an order (the "Protective Order"), pursuant to sections 105(a), 107(b), and 1521 of title 11 of the United States Code (the "Bankruptcy Code"). Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 9018-

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

1(b) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court of the District of Delaware (the "Local Rules"): (a) authorizing the filing under seal of (i) certain provisions of that Asset Purchase Agreement (the "Purchase Agreement"), by and between the Debtors and H.I.G. Zamboni, LLC (the "Purchaser"), dated June 7, 2012, and (ii) the Confidential Appendix (the "Confidential Appendix") to the Fourth Report of the Monitor² (the "Fourth Monitor's Report"); and (b) granting related relief. In support of this Motion, the Monitor relies upon (a) the Affidavit of Keith McMahon,³ dated June 13, 2012 (the "McMahon Affidavit"), and (b) the Fourth Monitor's Report. In further support of the relief requested herein, the Monitor, through its undersigned co-counsel, respectfully represents as follows:

#### **JURISDICTION**

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court and in this District pursuant to 28 U.S.C. § 1410. The statutory predicates for the relief requested herein are sections 105(a), 107(b), and 1521 of the Bankruptcy Code, as supplemented by Bankruptcy Rule 9018 and Local Rule 9018-1(b).

#### **BACKGROUND**

2. On February 22, 2012, the Debtors commenced the Canadian Proceeding, and the Canadian Court entered an initial order (including any extensions, amendments, or modifications thereto, the "<u>Initial Order</u>"), pursuant to the CCAA, providing various forms of relief thereunder, including, but not limited to, authorizing and directing the Debtors to commence, and the Debtors, the Monitor, the Financial Advisor (as such term is defined in the

The Fourth Monitor's Report was filed contemporaneously herewith. [Docket No. 106].

The Affidavit of Keith McMahon was filed contemporaneously herewith. [Docket No. 105].

Sale and Investor Solicitation Process (the "SISP"))<sup>4</sup> and the Chief Process Supervisor (as such term is defined in the SISP), to perform their obligations under a process offering potential investors an opportunity to purchase or invest in the Debtors' business and operations in accordance with the SISP.

- 3. On February 22, 2012 (the "<u>Petition Date</u>"), the Monitor commenced this proceeding (these "<u>Chapter 15 Cases</u>") by filing verified petitions on behalf of the Debtors, pursuant to sections 1504 and 1515 of the Bankruptcy Code, seeking recognition by this Court of the Canadian Proceeding as a foreign main proceeding under chapter 15 of the Bankruptcy Code.
- 4. On February 23, 2012, this Court entered the *Order Granting Provisional Relief* [Docket No. 28] (the "<u>Provisional Relief Order</u>"), providing for, among other things, a stay of all proceedings against or concerning property of the Debtors located within the territorial jurisdiction of the United States.
- 5. On March 16, 2012, this Court entered the *Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief* [Docket No. 70] (the "Recognition Order"). Pursuant to the Recognition Order, this Court: (a) granted recognition of the Canadian Proceeding as a foreign main proceeding under section 1517 of the Bankruptcy Code; (b) authorized the Debtors to obtain postpetition secured financing; and (c) enforced in full the Initial Order on a permanent basis in the United States.
- 6. As described in the Fourth Monitor's Report, bids were solicited by the Debtors and the Financial Advisor in accordance with the SISP. The Monitor, after consultation with the Debtors, the Financial Advisor, and the Chief Process Supervisor, and after taking into

A copy of the SISP is annexed as <u>Schedule C</u> to the Initial Order, which is annexed as <u>Exhibit A</u> to the Declaration of Philip J. Reynolds in Support of Verified Petition of Alvarez & Marsal Canada Inc., as Foreign Representative of Arctic Glacier Inc. and Certain of its Affiliates, for: (I) Recognition of Foreign Main Proceeding; and (II) Certain Related Relief [Docket No. 2] (the "Reynolds Declaration").

account the evaluation criteria set forth in paragraph 2.7 of the SISP, recommended to the Special Committee of the Debtors' Board of Trustees (the "Special Committee") that the bid submitted by the Purchaser was the highest or otherwise best offer and should be selected.

- 7. The Special Committee accepted the Monitor's recommendation and, on June 8, 2012, the Debtors publicly announced that they had entered into a binding agreement to sell substantially all of their assets to the Purchaser.
- 8. On June 13, 2012, the Debtors filed with the Canadian Court, pursuant to the CCAA, a motion for the CCAA Vesting Order<sup>5</sup> seeking, among other things, the Canadian Court's approval of the Purchase Agreement and authorization for the Debtors to sell substantially all of their assets free and clear of all Claims and Encumbrances (as each such term is defined in the CCAA Vesting Order) in a manner consistent with the Purchase Agreement.
- 9. On June 21, 2012, the Canadian Court granted the CCAA Vesting Order, pursuant to which the Canadian Court authorized and approved the sale (the "Sale") of the Debtors' right, title, and interest in and to substantially all of the Debtors' assets to the Purchaser, free and clear of all Claims and Encumbrances, except as otherwise set forth in the Purchase Agreement.
- 10. Contemporaneously herewith, the Monitor has filed the Monitor's Motion, Pursuant to Sections 105(a), 363, 1501, 1520, and 1521 of the Bankruptcy Code, and Bankruptcy Rules 2002, 6004, and 9014, for Entry of an Order (I) Recognizing and Enforcing the CCAA Vesting Order, (II) Authorizing and Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of Any and All Liens, Claims, Encumbrances, and Other Interests, (III) Authorizing Assignment of Certain Executory Contracts and Unexpired Leases,

The CCAA Vesting Order is annexed to the U.S. Sale Motion as Exhibit B.

and (IV) Granting Related Relief (the "U.S. Sale Motion"), which requests that this Court:

(a) recognize and enforce the CCAA Vesting Order of the Canadian Court; (b) authorize and approve, pursuant to section 363(f) of the Bankruptcy Code, the Sale of the Debtors' right, title, and interest in and to the Purchased Assets to the Purchaser free and clear of all Interests (as defined in the U.S. Sale Motion), except as otherwise provided in the Purchase Agreement;

(c) authorize and approve, to the extent provided in the CCAA Vesting Order, the assumption and assignment of the Assigned Contracts (as defined in the Purchase Agreement); and (d) grant certain related relief, including payment of the Lender Claims (as defined in the SISP).

Canadian Proceeding, the SISP, and these Chapter 15 Cases are set forth in (a) the Reynolds Declaration, (b) the *Pre-Filing Report of the Proposed Monitor*, filed on the Petition Date as <a href="Exhibit C">Exhibit C</a> to the Reynolds Declaration, (c) the *First Report of the Monitor*, filed with this Court on March, 13, 2012 [Docket No. 56], (d) the *Second Report of the Monitor*, filed with this Court on April 4, 2012 [Docket No. 83], (e) the *Third Report of the Monitor*, filed with this Court on May 15, 2012 [Docket No. 101], and (f) the Fourth Monitor's Report.

#### RELIEF REQUESTED

Agreement in which the purchase price and the purchase price allocation has been redacted (the "Confidential Provisions"). In addition, contemporaneously herewith, the Monitor has filed the Confidential Appendix under seal. The Confidential Appendix contains a copy of the unredacted Purchase Agreement, a summary of the bids received, and additional commercially sensitive information concerning the SISP. The Monitor believes that the Confidential Provisions and the Confidential Appendix are commercially sensitive, and that public disclosure

of them would prejudice the Debtors' efforts to engage in a subsequent transaction should the Sale fail to close. Any such taint on the Debtors' efforts to engage in a subsequent transaction would be harmful to the Debtors, their creditors, and other stakeholders.

- 13. In connection with the U.S. Sale Motion, the Monitor believes that this Court and the Office of the United States Trustee for the District of Delaware should be, and will be, apprised of the details of all of the bids received through the SISP and the Monitor's analysis of those bids. Non-disclosure of the Confidential Appendix and the Confidential Provisions to parties in interest, on the other hand, will not prejudice them. The Monitor is disclosing in the U.S. Sale Motion substantially all of the terms of the Purchase Agreement, with the exception of the Confidential Provisions, and is further disclosing to parties in interest the expected impact of the Sale on payment to creditors. The Fourth Monitor's Report states that (a) the Purchaser's bid was the highest bid received with the fewest conditions to closing, (b) the purchase price is sufficient to satisfy all known creditor claims, and, (c) subject to the completion of a claims process and the payment of any obligations arising from the completion of the Transaction, the purchase price may be sufficient to make a distribution to the Debtors' unitholders.
- 14. Notably, the Debtors have requested substantially similar relief in the Canadian Proceeding and such relief was granted by the Canadian Court. Accordingly, the Monitor respectfully requests entry of the Protective Order, substantially in the form attached hereto as <a href="Exhibit A">Exhibit A</a>, authorizing the Monitor to file the Confidential Provisions and the Confidential Appendix under seal.

#### **BASIS FOR RELIEF**

15. Pursuant to section 107(b) of the Bankruptcy Code, the Court may authorize the Monitor to file the Confidential Provisions of the Purchase Agreement and the

Confidential Appendix under seal. Section 107(b) of the Bankruptcy Code provides, in relevant part, as follows:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may —

- (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or
- (2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

11 U.S.C. § 107(b).

16. Bankruptcy Rule 9018 sets forth the procedure by which a party-ininterest may obtain a protective order authorizing the filing of a document under seal. Bankruptcy Rule 9018 provides, in relevant part, as follows:

On any motion or its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development or commercial information . . . .

Fed. R. Bankr. P. 9018 (2010).

17. After a court determines that a party in interest is seeking protection of information that validly falls within one of the categories enumerated in section 107(b) of the Bankruptcy Code, "the court is required to protect a requesting interested party and has no discretion to deny the application." Video Software Dealers Ass'n v. Orion Pictures Corp. (In re Orion Pictures Corp.), 21 F.3d 24, 27 (2d Cir. 1994). Courts have also found that such relief should be granted if the information sought to be protected is "commercial information." See In re Global Crossing, 295 B.R. 720, 725 (Bankr. S.D.N.Y. 2003) (finding the purpose of Bankruptcy Rule 9018 is to "protect business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury"). Courts have also stated that

commercial information need not rise to the level of a trade secret in order to be protected under section 107(b) of the Bankruptcy Code. See Orion, 21 F.3d at 28 (finding that section 107(b)(1) creates an exception to the general rule that court records are open to examination by the public and, under this exception, an interested party has to show only that the information it wishes to seal is "confidential and commercial" in nature).

- Confidential Provisions and the Confidential Appendix contain commercially sensitive information regarding the purchase price and the Monitor's description and evaluation of all bids received under the SISP. Should the Sale fail to close, disclosure of the Confidential Provisions and the Confidential Appendix could pose a serious risk to the Debtors, their creditors, and other parties in interest by tainting the remaining pool of potential purchasers or investors. In addition, in light of the many contingencies as to the amount and the timing of any distributions related to the proceeds of the Sale (other than payment of the secured lenders' claims), disclosure of the Confidential Provisions and the Confidential Appendix at this time, before more information is obtained concerning such contingencies, would be misleading to unitholders and other stakeholders and could lead to harmful speculation.
- 19. Under Canadian law, a confidentiality order may be granted when it is:

  (a) "necessary to prevent a serious risk to an important interest, including a commercial interest"; and (b) "the salutary effects of the confidentiality order . . . outweigh its deleterious effects."

  Atomic Energy of Canada Ltd. v. Sierra Club of Canada, 2002 SCC 41 (Can.). A Canadian court must weigh the proposed confidentiality order's impact on various factors, such as the principle of open courts, the right to a fair trial, and the public interest. Id. ¶¶ 53-57. Because the Canadian Court has granted relief substantially similar to the relief requested herein, entry of the

Protective Order will promote (a) the reasonable expectations and/or contractual obligations of the Debtors, the Monitor, and the Purchaser, and (b) comity and the cross-border coordination that chapter 15 is intended to effectuate. Moreover, entry of the Protective Order, as a means to provide assistance to the Canadian Court, is not manifestly contrary to United States public policy, particularly given the Canadian legal framework's respect for the principle of open courts and its weighing thereof in the confidentiality order analysis. Sierra Club demonstrates that the Canadian analysis of whether a court should permit information to be filed confidentially is quite similar to the U.S. analysis. See Orion, 21 F.3d at 26-27 and cases cited therein. See also In re MuscleTech Research & Dev. Inc., 349 B.R. 333 (S.D.N.Y. 2006) (holding that a Canadian claims process that did not allow certain claimants a right to a jury trial was not manifestly contrary to United States public policy); Loucks v. Standard Oil Co., 120 N.E. 198 (N.Y. 1918) (Cardozo, J.) ("[W]e are not so provincial to say that every solution of a problem is wrong because we deal with it otherwise at home."). As such, the Monitor requests that the Court grant the relief requested in this Motion.

- 20. Bankruptcy courts in this district have granted relief similar to the general relief requested in this Motion. In re Crystallex International Corp., Case No. 11-14074 (PJW) (Bankr. D. Del. April 11, 2012) (authorizing the filing of certain provisions of a DIP credit agreement under seal); OTC Holdings Corp., Case No. 10-12636 (BLS) (Bankr. D. Del. Feb. 10, 2011) (authorizing the filing of certain provisions of a debtor's exit facility under seal); In re Indalex Holdings Finance, Inc., Case No. 09-10982 (PJW) (Bankr. D. Del. April 28, 2009) (authorizing a debtor to file certain provisions of a DIP credit agreement under seal).
- 21. An additional matter of redaction may be relevant in connection with this Motion. Subsequent to the Canadian Court's granting of the CCAA Vesting Order, the Debtors

became aware that Schedule 1.01(B) to the Purchase Agreement contained competitively sensitive information that ought to have been redacted from the form of Purchase Agreement attached to the McMahon Affidavit, which formed part of the public record. The Debtors have represented to the Monitor that Schedule 1.01(B) is not material to the terms of the Sale. The Debtors wish to remove Schedule 1.01(b) from Exhibit A to the McMahon Affidavit in the public record since: (a) in making the CCAA Vesting Order, the Canadian Court had reference to the unredacted Purchase Agreement filed under seal such that this modification of the redacted version of the Purchase Agreement attached to the McMahon Affidavit does not impact the record relied upon by the Canadian Court in making the CCAA Vesting Order; (b) it would prejudice the Debtors for Schedule 1.01(B) to remain in the public record in Canada since it contains competitively sensitive information; and (c) if the Schedule is not removed from the Canadian Court's record, Schedule 1.01(B) will remain posted on the website of the Monitor and must be filed in connection with the Sale Motion in this Court, which would cause further dissemination of the confidential information and prejudice to the Debtors. Consequently, the Debtors have filed today in the Canadian Court a Motion to Redact Confidential Schedule, which is expected to be heard by the Canadian Court tomorrow, June 27, 2012. Should the Motion to Redact Confidential Information be denied, the Monitor will file and serve the redacted version of the Purchase Agreement initially provided to the Canadian Court that included Schedule 1.01(B).

#### **NOTICE**

22. The Monitor will provide notice of this Motion in accordance with this Court's *Order Scheduling Hearing and Specifying Form and Manner of Service of Notice* 

[Docket No. 30]. The Monitor submits that no other or further notice of this Motion is necessary or required.

#### **CONCLUSION**

WHEREFORE, the Monitor respectfully requests that this Court enter the Protective Order, substantially in the form attached hereto as <u>Exhibit A</u>: (a) authorizing the Monitor to file certain provisions of the Purchase Agreement under seal; (b) authorizing the Monitor to file the Confidential Appendix under seal; and (c) granting such other and further relief as the Court deems just and proper.

Dated: Wilmington, Delaware June 26, 2012

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Matthew B. Lunn

Robert S. Brady (No. 2847) Matthew B. Lunn (No. 4119) Ian J. Bambrick (No. 5455) Rodney Square 1000 North King Street Wilmington, Delaware 19801 Telephone: (302) 571-6600 Facsimile: (302) 571-1253

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Co-Counsel to the Monitor and Foreign Representative

# **EXHIBIT A**

## **Protective Order**

# UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

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

# ORDER AUTHORIZING THE FILING UNDER SEAL OF: (I) CERTAIN PROVISIONS OF THE PURCHASE AGREEMENT; AND (II) THE CONFIDENTIAL APPENDIX TO THE FOURTH REPORT OF THE MONITOR

Upon consideration of the Motion<sup>2</sup> for entry of an order, pursuant to sections 105(a), 107(b), and 1521 of title 11 of the United States Code (the "Bankruptcy Code"), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 9018-1(b) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the "Local Rules"): (a) authorizing the filing under seal of (i) certain provisions of the Purchase Agreement (the "Confidential Provisions"), (ii) the Confidential Appendix (the "Confidential Appendix") to the Fourth Report of the Monitor; and

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

<sup>&</sup>lt;sup>2</sup> Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Motion.

(b) granting related relief; and it appearing that this Court has jurisdiction over this matter

pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this Motion is a core proceeding

pursuant to 28 U.S.C. § 157; and adequate notice of the Motion and opportunity for objection

having been given; and it appearing that no other notice need be given; and after due deliberation

and sufficient cause therefor,

IT IS HEREBY ORDERED, ADJUGED, AND DECREED that:

1. The Motion is granted.

2. The Confidential Provisions are confidential, and the Monitor is hereby

authorized to file the Confidential Provisions under seal pursuant to section 107(b) of the

Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1(b).

3. The Confidential Appendix is confidential, and the Monitor is hereby

authorized to file the Confidential Appendix under seal pursuant to section 107(b) of the

Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1(b).

4. The Confidential Provisions and the Confidential Appendix shall remain

under seal and confidential and, except as may be provided by an Order of the Canadian Court,

shall not be made available to anyone.

5. The Monitor is authorized and empowered to take all actions necessary to

implement the relief granted in this Order.

6. This Court shall retain jurisdiction with respect to all matters relating to

the interpretation or implementation of this Order.

Dated: Wilmington, Delaware

July\_\_\_, 2012

The Honorable Kevin Gross

United States Bankruptcy Judge

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