

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commenced at Windsor)

THE HONOURABLE)
JUSTICE LEITCH)
TUESDAY, THE 11TH
DAY OF JULY, 2013

B E T W E E N:

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

Plaintiff

- and -

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

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(Certification and Approval of Notice)

THIS MOTION made by the Ontario Plaintiff for an Order (1) certifying this proceeding as a class proceeding for settlement purposes (2) approving the opt-out process and (3) approving the form and the method of dissemination of notice of certification and of the settlement approval hearing in this Ontario Proceeding was heard this day at the Court House, 80 Dundas Street, London, Ontario.

ON READING the materials filed, including:

- a) the Settlement Agreement attached to this order as **Schedule "A"**;
- b) the Affidavits of Heather Rumble Peterson sworn June 7, 2013 and Louise Knowles sworn June 9, 2013;
- c) the Affidavit of Bruce Robertson sworn February 27, 2013; and
- d) the confidential Affidavit of Katherine Stubits sworn July 10, 2013

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

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

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

CERTIFICATION FOR SETTLEMENT PURPOSES

2. **THIS COURT ORDERS** that this Ontario Proceeding is certified as a class proceeding for settlement purposes only.

3. **THIS COURT ORDERS** that the Class is defined as:

All customers (including Chain/Banner Entities and Chain/Banner Stores) in Ontario, Alberta, British Columbia, Manitoba, Saskatchewan and Quebec, including all legal persons established for a private interest, partnership or association in the Province of Quebec which at all times between February 26, 2009 and February 26, 2010 had under its direction or control more than 50 persons bound to it by a contract of employment, who purchased, or received for the purpose of selling, Packaged Ice in Canada directly from Arctic or any of its parents, subsidiaries or affiliates during the period January 1, 2001 to March 6, 2008, other than Excluded Persons.

4. **THIS COURT ORDERS** that the Ontario Plaintiff, Louise Knowles c.o.b. as Special Events Marketing, is appointed as the Representative Plaintiff on behalf of the Class.

5. **THIS COURT ORDERS** that the following issue is common to the Class:

During the Class Period, did the Defendants, or either of them, participate in a conspiracy in respect of the production, distribution, sale or supply of Packaged Ice in Canada?

6. **THIS COURT DECLARES** that the following causes of action were advanced on behalf of the Class:

- a) breach of the *Competition Act*; and
- b) common law conspiracy.

7. **THIS COURT DECLARES** that the following claims for relief were advanced on behalf of the Class:

- a) damages for breach of the *Competition Act* and common law conspiracy;
- b) punitive and exemplary damages;
- c) pre-judgment and post-judgment interest;
- d) costs of investigation and prosecution of this action pursuant to sec. 36(1) of the *Competition Act*; and
- e) costs of this action on a substantial indemnity basis plus the costs of distribution of an award under sec. 24 or 25 of the *Class Proceedings Act*, 1992, including costs of notice.

NOTICE

8. **THIS COURT ORDERS** that:

- a) Class Counsel shall forthwith send a single notice of certification, of the opt-out process and of the date for the hearing of the motion for settlement approval, in English and French, ("the Notice") to the Class Members.
- b) The Notice to Class Members is hereby approved substantially in the form attached hereto as **Schedule B**;

- c) The plan for the publication of the Notice is approved substantially in the form attached hereto as **Schedule C**;

OPT OUT PROCEDURE

9. **THIS COURT ORDERS** that any Class Member wishing to opt out of this Ontario Proceeding must do so by sending a written election to opt-out, signed by the person or their designee, together with the information required in accordance with paragraph 10 of this Order, to Class Counsel at the address provided in the Notice, and postmarked on or before the date which is thirty (30) days following the date of the publication of the Notice ("the opt-out deadline").
10. **THIS COURT ORDERS** that an election to opt-out will only be valid if it is actually received by Class Counsel, postmarked before the Opt-Out Deadline, and contains the following information:
 - a) the full name, current address and telephone number of the Class Member seeking to opt out;
 - b) a statement to the effect that the Class Member wishes to be excluded from this Ontario Proceeding; and
 - c) a statement as to whether the Class Member seeking to opt out does or does not intend to exercise any rights it may have to commence a lawsuit against the Defendants regarding the alleged Common Issue.
11. **THIS COURT ORDERS** that Chain/Banner Stores within a Chain/Banner Group may not individually opt out unless and until its Chain/Banner Entity does so.
12. **THIS COURT ORDERS** that each Chain/Banner Store within a Chain/Banner Group shall be deemed to have opted out if its Chain/Banner Entity opts out.

13. **THIS COURT ORDERS** that any Class Member who validly opts out of this Ontario Proceeding is not bound by the Settlement Agreement, is not a Settlement Class Member and shall receive no compensation pursuant to the Settlement Agreement.
14. **THIS COURT ORDERS** that any Class Member who does not validly opt out of this Ontario Proceeding is bound by the Settlement Agreement and may not opt out of this Ontario Proceeding after the Opt-Out Deadline.
15. **THIS COURT ORDERS** that within ten (10) days of the Opt-Out Deadline, Class Counsel shall provide to the Defendants and the Ontario Court an Opt-Out Report containing the information listed in paragraph 10 herein for each Class Member who has validly opted out of this Ontario Proceeding.

SETTLEMENT APPROVAL HEARING

16. **THIS COURT ORDERS AND DECLARES** that it will hold a hearing on Friday, the 6th day of September, 2013 beginning at 2:30 p.m. Eastern at the Court House, 80 Dundas Street, London Ontario (the "Approval Hearing") to decide whether to:
 - a) approve the Settlement Agreement;
 - b) approve the fees and disbursements of Class Counsel; and
 - c) dismiss this Ontario Proceeding against the Defendants,.
17. **THIS COURT ORDERS** that at the Approval Hearing the Ontario Court will consider objections to the Settlement Agreement by putative Class Members if their objections are sent in written form to Class Counsel at the address provided in the Notice, postmarked on or before the 23rd day of August, 2013.
18. **THIS COURT ORDERS** that there shall be no costs of this motion.



 Justice Leitch

ENTERED AT WINDSOR	
In Book No. <u>24</u>	
re Document No. <u>978</u>	
on <u>July 24</u> 20 <u>13</u>	
by <u>JK</u>	

**PACKAGED ICE CLASS ACTION
SETTLEMENT AGREEMENT**

Made as of the 4th day of May, 2011

Between

**GRAND-SLAM CONCERT, PRODUCTIONS LTD.,
LOUISE KNOWLES c.o.b. as SPECIAL EVENTS MARKETING,
and 1008021 ALBERTA LTD.**

(the "Plaintiffs")

- and -

**ARCTIC GLACIER, INC.
and REDDY ICE HOLDINGS, INC.**

(the "Defendants")

TABLE OF CONTENTS

RECITALS

SECTION I – Definitions

SECTION II – Settlement Approval

- 2.1 Finality
- 2.2 Best Efforts
- 2.3 Motions

SECTION III – Settlement Benefits

- 3.1 Payment of Settlement Amount
- 3.2 Taxes and Interest

SECTION IV – Administration of the Settlement and Distribution of the Settlement Fund

- 4.1 Settlement Administration
- 4.2 Information to be Provided
- 4.3 Distribution Protocol
- 4.4 No Responsibility for Administration or Further Payments

SECTION V – Opting Out and Termination

- 5.1 Procedure
- 5.2 Opt-Out Report by Class Counsel
- 5.3 Opt-Out Threshold
- 5.4 Defendants Shall Not Encourage Opt-Outs
- 5.5 No Individual Settlements Have Been Reached
- 5.6 Right of Termination
- 5.7 If Settlement Agreement is Terminated
- 5.8 Allocation of Monies in the Account Following Termination
- 5.9 Survival of Provisions after Termination

SECTION VI – Releases and Dismissal

- 6.1 Release of Releasees
- 6.2 Release by Releasees
- 6.3 Covenant Not to Sue
- 6.4 No Further Claims
- 6.5 Dismissal of the Ontario Proceeding

SECTION VII – Effect of Settlement

- 7.1 No Admission of Liability
- 7.2 Agreement Not Evidence
- 7.3 No Further Litigation

SECTION VIII – Certification for Settlement Only

- 8.1 Certified Class Proceeding
- 8.2 Common Issue and Class

SECTION IX – Notice to Class

- 9.1 Notices to Class
- 9.2 Form of Notices
- 9.3 Method of Disseminating Notices

SECTION X – Counsel Fees

- 10.1 Counsel Fees
- 10.2 Administration Expenses and Other Expenses

SECTION XI – Miscellaneous

- 11.1 Motions for Directions
- 11.2 Headings and Terms
- 11.3 Computation of Time
- 11.4 Ongoing Jurisdiction
- 11.5 Governing Law
- 11.6 Entire Agreement
- 11.7 Amendments
- 11.8 Binding Effect
- 11.9 Counterparts
- 11.10 Negotiated Agreement
- 11.11 Language
- 11.12 Recitals
- 11.13 Schedules
- 11.14 Acknowledgements
- 11.15 CCAA Proceeding
- 11.16 Authorized Signatures
- 11.17 Notice
- 11.18 Date of Execution

**PACKAGED ICE CLASS ACTION
SETTLEMENT AGREEMENT**

RECITALS

- A. **WHEREAS** Proceedings have been commenced in Ontario and Alberta which allege that the Defendants participated in an unlawful conspiracy to raise, fix, maintain and stabilize the price of Packaged Ice through a number of mechanisms including allocating markets, territories and customers in respect of Packaged Ice in Canada, to lessen unduly competition in the production, distribution, sale and/or supply of Packaged Ice to the Class Members in Canada and/or to conduct business contrary to Part VI of the *Competition Act* and the common law;
- B. **WHEREAS** the Defendants do not admit any unlawful conduct as alleged in the Proceedings;
- C. **WHEREAS** the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the claims advanced, and having regard to the burdens and expense in prosecuting the Proceedings, including the risks and uncertainties associated with trials and appeals, the risk of collection, as well as the assured method of resolving the claims of the Class, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Class the Ontario Plaintiff seeks to represent;
- D. **WHEREAS** the Plaintiffs, Class Counsel and the Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission

by or evidence against the Defendants or evidence of the truth of any of the Plaintiffs' allegations against the Defendants, which the Defendants each expressly deny;

- E. **WHEREAS** the Defendants are entering into this Settlement Agreement in order to achieve a final resolution of all claims asserted or which could have been asserted against them by the Plaintiffs, individually and on behalf of the Class sought to be certified for settlement purposes in the Ontario Proceeding, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;
- F. **WHEREAS** the Parties therefore wish to, and hereby do, finally resolve without admission of liability, all of the Proceedings as against the Defendants;
- G. **WHEREAS** for the purposes of settlement only and contingent on approvals and orders by the Courts as provided for in this Settlement Agreement, the Parties have consented to certification of the Ontario Proceeding as a class proceeding and have consented to a Class and a Common Issue, and have consented to the final disposition of the Ontario Proceeding and the Alberta Proceedings and the Other Proceeding;
- H. **WHEREAS** the Ontario Plaintiff in the Ontario Proceeding asserts that she is an adequate class representative for the Class and will seek to be appointed the Representative Plaintiff.

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the

Proceedings be settled and dismissed or stayed with prejudice as against the Defendants, each without costs paid or payable to the Plaintiffs (other than Class Counsel Fees which may be awarded by the Ontario Court and levies or other amounts payable to the Ontario Class Proceedings Fund out of the Settlement Amount), or to the Class or to the Defendants, on the following terms and conditions, subject to the approval of the Ontario Court:

SECTION 1

DEFINITIONS

1.1 For the purpose of this Settlement Agreement only, including the Recitals and Schedules hereto:

- a) ***Account*** means an interest bearing trust account at a Canadian Schedule 1 bank in Ontario under the control of Class Counsel for the benefit of Settlement Class Members.
- b) ***Administration Expenses*** mean all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Ontario Plaintiff or Class Counsel for the implementation and operation of this Settlement Agreement, including the costs of notices and claims administration but excluding Class Counsel Fees and levies or other amounts payable to the Ontario Class Proceedings Fund.
- c) ***Alberta Counsel*** means Docken & Company.
- d) ***Alberta Court*** means the Court of Queen's Bench of Alberta.
- e) ***Alberta Plaintiff*** means 1008021 Alberta Ltd.

- f) **Alberta Proceedings** mean Court File Nos. 0907-09552 and 1001-03548, Court of Queen's Bench of Alberta, Judicial Centre of Calgary.
- g) **Arctic** means Arctic Glacier, Inc.
- h) **CCAA Proceeding** means the proceeding with Court File No. CI 12-01-76233 in the Queen's Bench of Manitoba, at Winnipeg Centre commenced with a filing pursuant to the Companies' Creditors Arrangement Act on February 22, 2013 respecting Arctic and other entities;
- i) **Chain/Banner Entity** means a Class Member with affiliated, licensed, franchised or owned locations operating in Canada during the Class Period under its chain name or banner ("a Chain/Banner Store", each of which is also a Class Member, and together with the Chain/Banner Entity, a "Chain/Banner Group"). The Chain/Banner Entity may have purchased or co-ordinated the purchase of Packaged Ice in Canada during the Class Period from Arctic, its parents, subsidiaries and affiliates for itself and/or for its Chain/Banner Stores, or the Chain/Banner Stores, or some of them, may have done so directly.
- j) **Claims Administrator** means Class Counsel or one or more of them or any party appointed by Class Counsel to implement and administer the Distribution Protocol.
- k) **Class Counsel** means Harrison Pensa ^{LLP} and Sutts, Strosberg ^{LLP}.
- l) **Class Counsel Fees** mean the fees, disbursements, costs, interest, GST, HST and any other applicable taxes or charges of or incurred by Class Counsel and Alberta Counsel.

- m) **Class** or **Class Member** means all customers (including Chain/Banner Entities and Chain/Banner Stores) in Ontario, Alberta, British Columbia, Manitoba, Saskatchewan and Quebec, including all legal persons established for a private interest, partnership or association in the Province of Quebec which at all times between February 26, 2009 and February 26, 2010 had under its direction or control more than 50 persons bound to it by a contract of employment who purchased, or received for the purpose of selling, Packaged Ice in Canada directly from Arctic or any of its parents, subsidiaries or affiliates during the Class Period, other than Excluded Persons.
- n) **Class Period** means January 1, 2001 to March 6, 2008.
- o) **Common Issue** means: During the Class Period did the Defendants, or either of them, participate in a conspiracy in respect of the production, distribution, sale or supply of Packaged Ice in Canada?
- p) **Courts** mean the Ontario Court and the Alberta Court.
- q) **Defendants** mean Arctic and Reddy Ice.
- r) **Distribution Protocol** means the plan for distributing the Settlement Fund as described in this Settlement Agreement and as approved by the Ontario Court.
- s) **Distribution Order** means the final Order of the Court in the CCAA Proceeding which authorized the distribution of the funds necessary

to satisfy, on a pro rata basis if necessary, all approved Proofs of Claim in that Proceeding;

- t) **Effective Date** means the date when the order of the Ontario Court for the approval of this Settlement Agreement becomes a final order, or thirty (30) days after the date of that ruling if the only appeal taken from that order relates to Class Counsel Fees.
- u) **Excluded Persons** mean the Defendants and any of their parents, subsidiaries and affiliates, and the officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendants and their parents, subsidiaries and affiliates.
- v) **Ontario Court** means the Ontario Superior Court of Justice.
- w) **Ontario Plaintiff** means Louise Knowles c.o.b. as Special Events Marketing.
- x) **Ontario Proceeding** means Ontario Court File No. 10-CV-14457, filed at the Ontario Superior Court of Justice, Windsor, Ontario.
- y) **Opt-Out Deadline** means the date which is thirty (30) days after the date on which the notice of certification for settlement purposes is first published.
- z) **Other Plaintiff** means the plaintiff Grand-Slam Concert, Productions Ltd. in the Other Proceeding.
- aa) **Other Proceeding** means Ontario Court File No. 62112CP filed at the Ontario Superior Court of Justice, London, Ontario.

- bb) **Packaged Ice** means packaged cubed, crushed, half-moon and block ice.
- cc) **Parties** mean the Plaintiffs and the Defendants, each a Party.
- dd) **Plaintiffs** mean the Ontario Plaintiff, the Alberta Plaintiff and the Other Plaintiff.
- ee) **Proceedings** mean the Ontario Proceeding, the Alberta Proceedings and the Other Proceeding.
- ff) **Reddy Ice** means Reddy Ice Holdings, Inc.
- gg) **Released Claims** mean any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, and damages whenever incurred, and liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, in law, under statute or in equity, that the Releasors, or any of them, whether directly or indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall or may have, relating in any way to any conduct anywhere, from the beginning of time to the date hereof, in respect of the direct purchase, direct sale, pricing, marketing or distribution of Packaged Ice in Canada, or relating to any conduct alleged (or which could have been alleged) in the Proceedings including, without limitation, any such claims which have been asserted or could have been asserted, whether in Canada or elsewhere, as a result of the direct

purchase in Canada of Packaged Ice from Arctic or its parents, subsidiaries and affiliates. However, nothing herein shall be construed to release any claims arising from any alleged product defect, or from any breach of contract unrelated to any allegation in the Proceedings, or similar claim between the Plaintiffs or any Settlement Class Member and the Defendants relating to Packaged Ice. Excepted always from this definition are any claims arising from any failure of the Defendants to comply with their obligations particularized in the order approving the Settlement Agreement and in the Settlement Agreement.

- hh) **Releasees** mean jointly and severally, individually and collectively, Arctic Glacier, Inc., Arctic Glacier Income Fund, Arctic Glacier International Inc., Reddy Ice Corporation and Reddy Ice Holdings, Inc. and their respective predecessors, successors, parents, subsidiaries, affiliates and assigns, and the officers, directors, trustees, employees, attorneys, agents and representatives of all of them, from the date of commencement of the Class Period, to the Effective Date.
- ii) **Releasors** mean jointly and severally, individually and collectively, the Plaintiffs and the Settlement Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers and assigns.
- jj) **Settlement Agreement** means this agreement, including the Recitals and Schedules.
- kk) **Settlement Amount** means the face value of the Proof of Claim filed by the Ontario Plaintiff on behalf of the Class in the CCAA Proceeding, when accepted, being CDN \$2,000,000.00, or such

lesser amount as by operation of law is caused to be distributed on a pro rata basis as for all accepted Proofs of Claim in the CCAA Proceeding;

- ll) **Settlement Class Member** means a Class Member who does not validly opt-out of the Ontario Proceeding.
- mm) **Settlement Fund** means the Settlement Amount plus any interest earned from the date of deposit in s.3.1(a) until the date of distribution, net of Class Counsel Fees, Administration Expenses and any amounts payable to the Ontario Class Proceedings Fund.
- nn) **Settlement Share** means the value assigned to each Settlement Class Member receiving direct compensation under the Distribution Protocol, as provided further in section 4.3 below, calculated using data provided by Arctic, whereby the numerator is the revenue received by Arctic and its parents, subsidiaries and affiliates from each such Settlement Class Member in respect of its Packaged Ice purchases in Canada during the Class Period, and the denominator is the total revenue received by Arctic and its parents, subsidiaries and affiliates from all Class Members in respect of their Packaged Ice purchases in Canada during the Class Period.

SECTION II

SETTLEMENT APPROVAL

2.1 Finality

This Settlement Agreement shall become final only on the Effective Date.

2.2 Best Efforts

The Parties shall use their best efforts to secure the prompt, complete approval and implementation of this Settlement Agreement, including the final dismissal with prejudice of the Proceedings as against the Defendants.

2.3 Motions

- a) The Ontario Plaintiff shall forthwith, following the execution of the Settlement Agreement, bring motions in the Ontario Proceeding for:
 - i) an order substantially in the form of Schedule A granting conditional certification for settlement purposes, and approving an opt-out process and a notice to class members and scheduling an approval hearing in the Ontario Proceeding; and
 - ii) an order substantially in the form of Schedule B approving this Settlement Agreement on an expedited basis.
- b) The Alberta Plaintiff and the Other Plaintiff confirm that they will not move to lift the stay of proceedings imposed on those Actions in the CCAA Proceeding, provided that the Settlement Agreement is approved by the Ontario Court, and the Order approving it becomes final, and the Settlement Agreement is not terminated in accordance with the provisions of section 5.6.

SECTION III

SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

- a) If settlement approval is granted, Arctic shall, on the later of the Effective Date and the date of issuance of the first Distribution Order in the CCAA Proceeding (in either instance, "the Payment Date") pay the Settlement Amount to Class Counsel, in trust, for deposit into the Account in full satisfaction of the Released Claims against the Releasees.
- b) Class Counsel shall maintain the Account as provided for in this Settlement Agreement. Class Counsel shall not pay out all or part of the monies in the Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Ontario Court obtained after notice to the Defendants.
- c) The Defendants shall have no obligation to pay any amount for any purpose under this Settlement Agreement, except under section 3.1(a).

3.2 Taxes and Interest

- a) Except as hereinafter provided, all interest earned on the Settlement Amount after payment to Class Counsel for deposit into the Account shall accrue to the benefit of Settlement Class Members and shall become and remain part of the Account.
- b) Subject to section 3.2(c), all Canadian taxes payable on any interest which accrues on the Settlement Amount in the Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Settlement Class Members. Class Counsel or any trustee or administrator who may be appointed by Class Counsel to hold the Settlement Amount in the Account, if so required, shall be solely responsible to fulfill all tax reporting and

payment requirements arising from the Settlement Amount in the Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Account.

- c) The Defendants shall have no responsibility to make any filings relating to the Account and will have no responsibility to pay tax on any income earned by the Settlement Amount or pay any taxes on the monies in the Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the Account shall be paid to Arctic, who in such case shall be responsible for the payment of all taxes on such interest.

SECTION IV

ADMINISTRATION OF THE SETTLEMENT AND DISTRIBUTION OF THE SETTLEMENT FUND

4.1 Settlement Administration

Class Counsel or one or more of them or an entity to be appointed by Class Counsel shall administer the settlement and the distribution of the Settlement Fund to Settlement Class Members.

4.2 Information to be Provided

- a) Arctic represents and warrants that a significant portion of its commerce with Class Members during the Class Period occurred at the Chain/Banner Entity level.

- b) Arctic further represents and warrants that it shall use its best efforts to provide its best current information and necessary sales data to provide a sales data analysis at the Chain/Banner Entity level for the Class Period so as to permit the Settlement Share analysis required for the Distribution Protocol.
- c) Arctic shall therefore use its best efforts to provide to Class Counsel within twenty (20) days following the execution of this Settlement Agreement, its best current information on these topics:
 - i) the sum of the total revenue received by Arctic or any of its parents, subsidiaries or affiliates from the Class Members in respect of their Packaged Ice purchases in Canada during the Class Period; and
 - ii) a list of the names and addresses of each of, at a minimum, the 166 largest Class Members by value of Packaged Ice purchased during the Class Period (including aggregated Chain/Banner Groups in the name of a Chain/Banner Entity) and data reflecting the percentage of Arctic's revenues attributable to each such Class Member for purchases from Arctic or any of its parents, subsidiaries or affiliates of Packaged Ice in Canada during the Class Period.
- d) all of the Arctic information referred to in section 4.2(c) shall be treated as confidential by the Ontario Plaintiff and all recipients, shall not be disclosed to the co-defendants in any Proceeding, and shall not be filed in any court proceeding except with the consent of Arctic and under seal.

4.3 Distribution Protocol

- a) The details of the Distribution Protocol must be approved by the Ontario Court and shall provide for the determination of the value of the net Settlement Fund after all expenses on account of legal fees, applicable taxes, disbursements, the levy payable to the Class Proceedings Fund and administration and notice expenses.
- b) The net Settlement Fund shall be distributed as follows ("the Distribution"):
 - i) a direct distribution shall be made to a minimum of the 166 largest Settlement Class Members (by value of Packaged Ice purchased during the Class Period and including aggregated Chain/Banner Groups in the name of a Chain/Banner Entity) according to their Settlement Shares; and
 - ii) a *cy pres* distribution shall then be made of those monies remaining in the Settlement Fund following the direct distribution, on a 50/50 basis to the Canadian Convenience Stores Association and the Retail Council of Canada for the benefit of those Settlement Class Members not receiving direct compensation under section 4.3(b)(i). For greater certainty, these monies shall include any Settlement Share that is not accepted by a Class Member or is incapable of distribution following reasonable attempts to do so.
 - iii) It is anticipated that the Plaintiff will complete the Distribution in s.4.3(b)(i) within five months of the Payment Date, and the Distribution in s.4.3.(b)(ii) within one month thereafter.

- c) The Plaintiff shall, within six months of the Payment Date, provide a report on the progress of the Distribution to the Defendants and the Ontario Court.
- d) Each Chain/Banner Entity receiving a direct distribution of compensation pursuant to this Settlement Agreement shall be directed, by the final settlement approval order, to utilize and if necessary distribute within its Chain/Banner Group the Settlement Share paid to it in a manner which is generally consistent with the pattern of Packaged Ice purchases made by that Chain/Banner Entity and/or its Chain/Banner Group members during the Class Period from Arctic, its parents, subsidiaries and affiliates.
- e) The final settlement approval order shall include a term that no Party shall have any responsibility for, or liability to any person or entity regarding, the manner in which each Chain/Banner Entity complies or fails to comply with the term of the final settlement approval order described in section 4.3 (d).

4.4 No Responsibility for Administration or Further Payments

- a) The Defendants shall have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement or the Distribution Protocol.
- b) The Defendants shall not have any responsibility, financial obligations or liability whatsoever with respect to the investment or administration of monies in the Account including, but not limited to, distributions to the Ontario Class Proceedings Fund, or for Administration Expenses and Class Counsel Fees.

SECTION V

OPTING OUT AND TERMINATION

5.1 Procedure

- a) A Class Member may opt-out of the Class by sending a written election to opt-out, signed by the person or the person's designee, by pre-paid mail, courier or fax to Class Counsel at an address to be identified in the settlement notice, except that a Chain/Banner Store election to opt-out is not valid unless and until its Chain/Banner Entity also delivers a valid election to opt-out. A valid election to opt-out received from a Chain/Banner Entity shall be deemed to include each and every Chain/Banner Store in its Chain/Banner Group.
- b) An election to opt-out will only be valid if it is actually received by Class Counsel on or before the Opt-Out Deadline and contains the following information:
 - i) The full name, current address and telephone number of the Class Member seeking to opt out;
 - ii) a statement to the effect that the Class Member or entity wishes to be excluded from the Ontario Proceeding; and
 - iii) a statement as to whether the Class Member seeking to opt out does or does not intend to bring a motion in the CCAA Proceeding to set aside the stay of proceedings Order for the Ontario Proceeding, and if successful, to exercise any rights it may have to commence a lawsuit against the Defendants regarding the alleged Common Issue.

5.2 Opt-Out Report by Class Counsel

Within twenty (20) days of the Opt-Out Deadline, Class Counsel shall provide to the Defendants and the Ontario Court a report containing the names of each Class Member who has validly opted out of the Ontario Proceeding (the "Opt-Out Report") and the information required in s.5.1(b)(i) and (iii)

5.3 Opt-Out Threshold

If valid opt-outs amounting to more than 10% of the value of the purchases of Packaged Ice in Canada during the Class Period are received, provided there are at least three (3) separate Chain/Banner Entities opting out (the "Opt-Out Threshold"), Arctic may, without restriction, terminate this Settlement Agreement by providing written notice to the Parties within twenty (20) days of receipt of the Opt-Out Report.

5.4 Defendants Shall Not Encourage Opt-Outs

The Defendants shall make no attempt to directly or indirectly cause any Class Member to opt-out.

5.5 No Individual Settlements Have Been Reached

The Defendants represent and warrant that no settlements have been reached with individual Class Members in respect of the allegations made in the Proceedings other than through this Settlement Agreement.

5.6 Right of Termination

a) In the event that:

- i) the Opt-Out Threshold is exceeded and Arctic provides written notice of termination in accordance with section 5.3;
- ii) the Ontario Court declines to approve this Settlement Agreement or any material part hereof;

- iii) the Ontario Court approves this Settlement Agreement in a materially modified form;
- iv) the Court in the CCAA Proceeding lifts the stay of proceedings Order for the Alberta Proceedings or the Other Proceeding other than with the consent of the parties; or
- v) payment of the Settlement Amount is not made under section 3.1(a);

this Settlement Agreement shall be terminated and, except as provided for in section 5.9, it shall be null and void and shall not be binding on the Parties.

- b) Any order, ruling or determination made by the Ontario Court with respect to Class Counsel Fees or with respect to the Distribution Protocol shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

5.7 If Settlement Agreement is Terminated

If this Settlement Agreement is terminated:

- i) any order certifying the Ontario Proceeding as a class action on the basis of the Settlement Agreement or approving this Settlement Agreement shall be set aside and declared null and void, and everyone shall be estopped from asserting otherwise;
- ii) any prior certification of the Ontario Proceeding as a class proceeding, including the definitions of the Class and the Common

Issue, shall be without prejudice to any position that any of the Parties may later take on any issue in the Proceedings or any other litigation; and

- iii) Class Counsel shall immediately return to Arctic all documents and data provided by Arctic or by any other person or entity at Arctic's direction pursuant to section 4.2 or otherwise pursuant to this Settlement Agreement, and shall certify in writing that they have destroyed all recordings or copies of such information in any format.

5.8 Allocation of Monies in the Account Following Termination

If the Settlement Agreement is terminated, Class Counsel shall return to Arctic all monies in the Account including interest, but less the costs of Notice disseminated in accordance with section 9.3, within thirty (30) business days of the relevant termination event in section 5.6(a).

5.9 Survival of Provisions after Termination

- a) If this Settlement Agreement is terminated, the provisions of sections 3.1(b), 3.2(c), 4.2(d), 4.4(a) and (b), 5.6(a), 5.7, 5.8, 5.9, 7.1, 7.2, 11.5 and 11.16, and the definitions and Schedules applicable thereto (for the limited purpose of interpretation only) shall survive the termination and continue in full force and effect. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

- b) The Parties expressly reserve all of their respective rights if this Settlement Agreement does not become effective, or if this Settlement Agreement is terminated.

SECTION VI

RELEASES AND DISMISSAL

6.1 Release of Releasees

Upon the Payment Date, provided that payment of the Settlement Amount has been made under section 3.1(a) and for other valuable consideration set forth in the Settlement Agreement, the Releasors forever and absolutely release the Releasees from the Released Claims.

6.2 Release by Releasees

Upon the Payment Date, provided that payment of the Settlement Amount has been made under section 3.1(a), each Releasee forever and absolutely releases each of the other Releasees from any and all claims for contribution or indemnity with respect to the Released Claims.

6.3 Covenant Not to Sue

Notwithstanding section 6.1, for any Settlement Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasors do not release the Releasees but instead covenant and undertake not to make any claim in any way or to threaten, commence, or continue any proceeding in any jurisdiction against the Releasees in respect of or in relationship to the Released Claims.

6.4 No Further Claims

The Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto.

6.5 Dismissal of the Ontario Proceeding

Upon the Payment Date, provided that payment of the Settlement Amount has been made under section 3.1(a), the Ontario Proceeding shall be dismissed with prejudice and without costs.

SECTION VII EFFECT OF SETTLEMENT

7.1 No Admission of Liability

Neither the existence nor any term of this Settlement Agreement nor any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, nor any action taken to carry out this Settlement Agreement, shall be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability, by the Defendants, or of the truth of any of the claims or allegations contained in the Proceedings or any other pleadings filed by any Plaintiffs.

7.2 Agreement Not Evidence

The Releasors agree that, whether or not it is terminated, neither the existence nor any term of this Settlement Agreement nor any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, or any action taken to carry out this Settlement Agreement, shall be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

7.3 No Further Litigation

Neither Class Counsel nor Alberta Counsel, nor anyone currently or hereafter employed by, associated with, or a partner with Class Counsel or Alberta Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any person which relates to or arises from the Released Claims. Moreover, these persons may not divulge to anyone for any purpose any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or otherwise ordered by a court.

SECTION VIII
CERTIFICATION FOR SETTLEMENT ONLY

8.1 Certified Class Proceeding

The Parties agree that the Ontario Proceeding shall be certified as a class proceeding solely for the purposes of settlement and for the approval of this Settlement Agreement by the Ontario Court.

8.2 Common Issue and Class

The Ontario Plaintiff agrees that, in the motion for certification of the Ontario Proceeding as a class proceeding and for the approval of this Settlement Agreement, the only common issue that the Ontario Plaintiff will seek to define is the Common Issue and the only class that the Ontario Plaintiff will seek to certify is the Class.

SECTION IX
NOTICE TO CLASS

9.1 Notice to Class

- (a) As to the Motion described in s.2.3(a)(i) and in the draft Order as Schedule 'A', the Ontario Plaintiff will provide Notice ("the First Notice") to the proposed Class of:
- i) the certification of the Ontario Proceeding for settlement purposes;
 - ii) the opt-out process; and
 - iii) the hearing at which settlement and Class Counsel fee approval shall be sought in the Ontario Proceeding.

- (b) As to the Motion described in s.2.3(a)(ii) and in the draft Order as Schedule 'B', the Ontario Plaintiff will provide notice ("the Second Notice") of the outcome of that Motion on Class Counsel's website.

9.2 Form of Notices

The Notices shall be in a form agreed upon by the Parties and approved by the Ontario Court or, if the Parties cannot agree on the form of the Notices, the Notices shall be in a form ordered by the Ontario Court.

9.3 Method of Disseminating Notices

The Notices shall be:

- i) disseminated by direct mail to the Class Members anticipated to receive direct benefits, at the addresses provided by Arctic;
- ii) posted on the websites of Class Counsel, Alberta Counsel, the Monitor appointed in the CCAA Proceeding, and Arctic; and
- iii) disseminated by any other means deemed prudent and appropriate by Class Counsel and Arctic and approved by the Ontario Court.

SECTION X COUNSEL FEES

10.1 Counsel Fees

Class Counsel Fees shall be reimbursed and paid out of the Account pursuant to the retainer agreement with the Ontario Plaintiff as approved by the Ontario Court or as otherwise determined by the Ontario Court. Class Counsel Fees shall be paid from the Account only after the Payment Date.

10.2 Administration Expenses and Other Expenses

- a) Administration and Notice Expenses shall be paid or reimbursed from the Account:
 - i) after approval of the Ontario Court; and
 - ii) only after the Payment Date other than amounts for the cost of notice which are recoverable in the event that the settlement is terminated as contemplated in paragraph 5.8 herein.
- b) The Ontario Class Proceedings Fund shall be paid from the Account only after the Payment Date.
- c) The Defendants shall not be liable for any fees, disbursements or taxes of any of Class Counsel's, the Plaintiffs' or Settlement Class Members' respective lawyers, experts, advisors, agents, or representatives or for Administration Expenses or for payments to the Ontario Class Proceedings Fund.

SECTION XI MISCELLANEOUS

11.1 Motions for Directions

- a) Class Counsel or either Defendant may apply to the Ontario Court for directions in respect of the implementation and administration of this Settlement Agreement.
- b) Class Counsel or Arctic may apply to the Ontario Court for directions in respect of the implementation and administration of the Distribution Protocol.
- c) All motions contemplated by this Settlement Agreement shall be on notice to the Parties to this Settlement Agreement. For certainty, notice need not be provided to Settlement Class Members in the event of a motion, except under s.9.1 unless so required by the Ontario Court.

11.2 Headings and Terms

In this Settlement Agreement:

- i) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
- ii) the terms "this Settlement Agreement", "hereof", "hereunder", "herein", and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of

this Settlement Agreement.

11.3 Computation of Time

In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- i) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- ii) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

11.4 Ongoing Jurisdiction

The Ontario Court shall retain jurisdiction over this Settlement Agreement, the Parties, the Settlement Class Members and Class Counsel Fees. The Court in the CCAA Proceeding shall retain jurisdiction over the Proofs of Claim and the Distribution Order(s) in that Proceeding.

11.5 Governing Law

This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

11.6 Entire Agreement

- a) This Settlement Agreement constitutes the entire agreement among the Parties with regard to the subject matter of the Settlement Agreement, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in respect to the subject matter of the Settlement Agreement. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein;
- b) The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

11.7 Amendments

This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto.

11.8 Binding Effect

This Settlement Agreement shall be binding upon, and enure to the benefit of the Plaintiffs, the Settlement Class Members, the Releasors, the Defendants, the Releasees and, where applicable, Class Counsel.

11.9 Counterparts

This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile signature shall be as effective as an original signature for purposes of executing this Settlement Agreement.

11.10 Negotiated Agreement

This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel. No Party will cite to the Ontario Court any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement.

11.11 Language

The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais.

11.12 Recitals

The Recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

11.13 Schedules

Schedules "A" and "B" form part of this Settlement Agreement.

11.14 Acknowledgements

Each of the Parties hereby affirms that:

- i) he, she or a representative with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
- ii) the terms of this Settlement Agreement and their effects have been fully explained to him, her or the Party's representative by his, her or its counsel;
- iii) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
- iv) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party with respect to the first Party's decision to execute this Settlement Agreement other than the representations and warranties contained herein.

11.15 CCAA Proceeding

The Parties (other than Reddy Ice) acknowledge that the Ontario Proceeding is currently stayed by Order of the Manitoba Court in the CCAA Proceeding. They agree that the operation of this Settlement Agreement is contingent upon their best faith efforts to obtain an Order from the Manitoba Court, within the CCAA Proceeding, approving the

execution of this Settlement Agreement by the Chief Process Supervisor on behalf of Arctic, and lifting the stay Order for the limited purpose only of allowing the Parties to seek a final certification and settlement approval Order against Arctic only, on consent, in the Ontario Court, in the manner prescribed by this Agreement.

11.16 Authorized Signatures

Each of the Parties represents that, on the date of execution, he, she or it is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

11.17 Notice

Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another Party, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives for the Party, as identified below:

For the Plaintiffs and for Class Counsel and Alberta Counsel:

HARRISON PENSA ^{LLP} Barristers & Solicitors 450 Talbot Street London, ON N6A 4K3 Jonathan J. Foreman Tel: 519-679-9660 Fax: 519-667-3362 E-mail: jforeman@harrisonpensa.com	SUTTS, STROSBERG ^{LLP} Barristers & Solicitors 600 – 251 Goyeau Street Windsor, ON N9A 6V4 Heather Rumble Peterson Tel: 519-561-6296 Fax: 866-316-5308 E-mail: hpeterson@strosbergco.com
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DOCKEN & COMPANY
Barristers & Solicitors
900, 800-6th Avenue SW
Calgary, AB T2P 3G3

Clint G. Docken, Q.C.
Tel: 403-269-3612
Fax: 403-269-8246
E-mail: cgd@docken.com

For Arctic

For Reddy Ice

McCARTHY TETRAULT LLP
Barristers & Solicitors
Suite 5300
Toronto Dominion Bank Tower
Toronto, ON M5K 1E6

Dana M. Peebles
Tel: 416-601-7839
Fax: 416-868-0673
E-mail: dpeebles@mccarthy.ca

FASKEN MARTINEAU DuMOULIN LLP
Lawyers
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, ON M5H 2T6

Paul J. Martin
Tel: 416-865-4439
Fax: 416-364-7813
E-mail: pmartin@fasken.com

11.18 Date of Execution

The Settlement Agreement is binding on the Parties as of the date the final Party executes the Settlement Agreement as set out below.

Date

By: 
Name: **HARRISON PENSA LLP**
Title: Class Counsel

June 7/13
Date

By: 
Name: **SUTTS, STROSBURG ^{LLP}**
Title: Class Counsel

Date:

By: _____
Name: **DOCKEN & COMPANY**
Title: Alberta Counsel

Date

By: _____
Name: **7088418 CANADA INC. o/a Grandview
Advisors, in its capacity as Chief Process
Supervisor for Arctic Glacier Inc.**

Date

By: _____
Name: **FASKEN MARTINEAU DuMOULIN ^{LLP}**
Title: Counsel for the Defendant, Reddy Ice
Holdings, Inc.

Name: **SUTTS, STROSBURG LLP**
Title: Class Counsel

Date:

By:  _____

Name: **DOCKEN & COMPANY**
Title: Alberta Counsel

Date

By: _____

Name: **7088418 CANADA INC. o/a Grandview
Advisors, in its capacity as Chief Process
Supervisor for Arctic Glacier Inc.**

Date

By: _____

Name: **FASKEN MARTINEAU DuMOULIN LLP**
Title: Counsel for the Defendant, Reddy Ice
Holdings, Inc.

Name: SUTTS, STROSBURG LLP
Title: Class Counsel

Date:

By: _____
Name: DOCKEN & COMPANY
Title: Alberta Counsel

Date

By: _____
Name: 7088418 CANADA INC. o/a Grandview
Advisors, in its capacity as Chief Process
Supervisor for Arctic Glacier Inc.

Date

By: _____
Name: FASKEN MARTINEAU DuMOULIN LLP
Title: Counsel for the Defendant, Reddy Ice
Holdings, Inc.

Name: **SUTTS, STROSBURG LLP**
Title: Class Counsel

Date:

By: _____
Name: **DOCKEN & COMPANY**
Title: Alberta Counsel

Date

By: _____
Name: **7088418 CANADA INC. o/a Grandview
Advisors, in its capacity as Chief Process
Supervisor for Arctic Glacier Inc.**

June 5, 2013
Date

By: Fasken Martineau DuMoulin LLP
Name: **FASKEN MARTINEAU DuMOULIN LLP**
Title: Counsel for the Defendant, Reddy Ice
Holdings, Inc. 

Schedule A

Court File No. 10-CV-14457

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

THE HONOURABLE) DAY, THE
)
JUSTICE LEITCH) DAY OF , 2013

BETWEEN:

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

Plaintiff

- and -

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

Defendants

Proceeding under the *Class Proceedings Act*, 1992

ORDER
(Certification and Approval of Notice)

THIS MOTION made by the Ontario Plaintiff for an Order (1) certifying this proceeding as a class proceeding for settlement purposes (2) approving the opt-out process and (3) approving the form and the method of dissemination of notice of certification and of the settlement approval hearing in this Ontario Proceeding was heard this day at the Court House, 251 Windsor Avenue, Windsor, Ontario.

ON READING the materials filed, including:

- a) the Settlement Agreement attached to this order as Schedule "A";
b) the Affidavits of Heather Rumble Peterson and Louise Knowles sworn _____;

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

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

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

CERTIFICATION FOR SETTLEMENT PURPOSES

2. **THIS COURT ORDERS** that this Ontario Proceeding is certified as a class proceeding for settlement purposes only.

3. **THIS COURT ORDERS** that the Class is defined as:

All customers (including Chain/Banner Entities and Chain/Banner Stores) in Ontario, Alberta, British Columbia, Manitoba, Saskatchewan and Quebec, including all legal persons established for a private interest, partnership or association in the Province of Quebec which at all times between February 26, 2009 and February 26, 2010 had under its direction or control more than 50 persons bound to it by a contract of employment, who purchased, or received for the purpose of selling, Packaged Ice in Canada directly from Arctic or any of its parents, subsidiaries or affiliates during the period January 1, 2001 to March 6, 2008, other than Excluded Persons.

4. **THIS COURT ORDERS** that the Ontario Plaintiff, Louise Knowles c.o.b. as Special Events Marketing, is appointed as the Representative Plaintiff on behalf of the Class.

5. **THIS COURT ORDERS** that the following issue is common to the Class:

During the Class Period, did the Defendants, or either of them, participate in a conspiracy in respect of the production, distribution, sale or supply of Packaged Ice in Canada?

6. **THIS COURT DECLARES** that the following causes of action were advanced on behalf of the Class:

- a) breach of the *Competition Act*; and
- b) common law conspiracy.

7. **THIS COURT DECLARES** that the following claims for relief were advanced on behalf of the Class:

- a) damages for breach of the *Competition Act* and common law conspiracy;
- b) punitive and exemplary damages;
- c) pre-judgment and post-judgment interest;
- d) costs of investigation and prosecution of this action pursuant to sec. 36(1) of the *Competition Act*; and
- e) costs of this action on a substantial indemnity basis plus the costs of distribution of an award under sec. 24 or 25 of the *Class Proceedings Act*, 1992, including costs of notice.

NOTICE

8. **THIS COURT ORDERS** that:

- a) Class Counsel shall forthwith send a single notice of certification, of the opt-out process and of the date for the hearing of the motion for settlement approval, in English and French, ("the Notice") to the Class Members.
- b) The Notice to Class Members is hereby approved substantially in the form attached hereto as Schedule B;

- c) The plan for the publication of the Notice is approved substantially in the form attached hereto as **Schedule C**;

OPT OUT PROCEDURE

- 9. **THIS COURT ORDERS** that any Class Member wishing to opt out of this Ontario Proceeding must do so by sending a written election to opt-out, signed by the person or their designee, together with the information required in accordance with paragraph 10 of this Order, to Class Counsel at the address provided in the Notice, and postmarked on or before the date which is thirty (30) days following the date of the publication of the Notice ("the opt-out deadline").
- 10. **THIS COURT ORDERS** that an election to opt-out will only be valid if it is actually received by Class Counsel, postmarked before the Opt-Out Deadline, and contains the following information:
 - a) the full name, current address and telephone number of the Class Member seeking to opt out;
 - b) a statement to the effect that the Class Member wishes to be excluded from this Ontario Proceeding; and
 - c) a statement as to whether the Class Member seeking to opt out does or does not intend to exercise any rights it may have to commence a lawsuit against the Defendants regarding the alleged Common Issue.
- 11. **THIS COURT ORDERS** that Chain/Banner Stores within a Chain/Banner Group may not individually opt out unless and until its Chain/Banner Entity does so.
- 12. **THIS COURT ORDERS** that each Chain/Banner Store within a Chain/Banner Group shall be deemed to have opted out if its Chain/Banner Entity opts out.

13. **THIS COURT ORDERS** that any Class Member who validly opts out of this Ontario Proceeding is not bound by the Settlement Agreement, is not a Settlement Class Member and shall receive no compensation pursuant to the Settlement Agreement.
14. **THIS COURT ORDERS** that any Class Member who does not validly opt out of this Ontario Proceeding is bound by the Settlement Agreement and may not opt out of this Ontario Proceeding after the Opt-Out Deadline.
15. **THIS COURT ORDERS** that within ten (10) days of the Opt-Out Deadline, Class Counsel shall provide to the Defendants and the Ontario Court an Opt-Out Report containing the information listed in paragraph 10 herein for each Class Member who has validly opted out of this Ontario Proceeding.
16. **THIS COURT DECLARES** that if valid elections to opt-out are received from Class Members responsible for 10% or more of the value of the purchases of Packaged Ice in Canada during the Class Period, and provided there are at least three (3) separate Chain/Banner Entities opting out, Arctic may, without restriction, terminate the Settlement Agreement by providing written notice to the Ontario Plaintiff within twenty (20) days of receipt of the Opt-Out Report.

SETTLEMENT APPROVAL HEARING

17. **THIS COURT ORDERS AND DECLARES** that it will hold a hearing on Friday, the 6 day of September, 2013 beginning at 10:00 a.m. Eastern at the Court House London, Ontario (the "Approval Hearing") to decide whether to:
 - a) approve the Settlement Agreement;
 - b) approve the fees and disbursements of Class Counsel; and
 - c) dismiss this Ontario Proceeding against the Defendants,.
18. **THIS COURT ORDERS** that at the Approval Hearing the Ontario Court will consider objections to the Settlement Agreement by putative Class Members if their objections

are sent in written form to Class Counsel at the address provided in the Notice, postmarked on or before the 23 day of August, 2013.

19. **THIS COURT ORDERS** that there shall be no costs of this motion.

Justice Leitch

- 2 -

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

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

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

DEFINITIONS

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

SETTLEMENT APPROVAL

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

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

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

RELEASES

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

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

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

ADMINISTRATION AND DISTRIBUTION OF SETTLEMENT FUND

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

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

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

OTHER MATTERS

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

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

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

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

Justice Leitch

**ONTARIO
SUPERIOR COURT OF JUSTICE****PROCEEDINGS COMMENCED AT WINDSOR**
Proceeding Under the Class Proceedings Act, 1992**ORDER****SUTTS, STROSBURG LLP**
Lawyers
600 Westcourt Place
251 Coveau Street
Windsor ON N9A 6Y4**HEATHER RUMBLE PETERSON**
LSUC#: 24671V
Tel: 519.561.6216
Fax: 519.561.6203**HARRISON PENZA LLP**
Lawyers
450 Talbot Street
P.O. Box 3237
London, ON N6A 5J6**JONATHAN FOREMAN**
LSUC #: 45087H
Tel: 519.661.6775
Fax: 519.667.3362**LAWYERS FOR THE PLAINTIFFS****FILE: 73.149.000**
REF: HTS/sw

IN THE MATTER OF PACKAGED ICE CLASS ACTION LITIGATION

Notice of Certification as a Class Proceeding, and of the Opt-Out Process

This notice may affect your rights. Please read carefully.

Pour un avis en français, prière de visiter notre site Web approprié au www.iceantitrust.com.

TO: Those companies in Ontario, British Columbia, Alberta, Saskatchewan and Quebec who purchased packaged cubed, crushed, half-moon and block ice ("Packaged Ice") in Canada directly from Arctic Glacier, Inc., its parents, subsidiaries and affiliates from January 1, 2001 to March 8, 2008 ("the Class Period"), except for the Defendants (as defined below) and persons related to the Defendants (the "Class Members").

(Persons who purchased individual bags of ice from retail outlets are not Class Members, and are not affected by this Notice.)

What is this Notice about?

A class action lawsuit was initiated in Ontario (Court File No. 10-CV-14457) at Windsor ("the Action"), alleging that the defendants Arctic Glacier, Inc. and Reddy Ice Holdings, Inc. ("the Defendants") conspired to fix the price of Packaged Ice in Canada in violation of the common law and the Canadian *Competition Act*.

It is important to note that the Defendant, Arctic Glacier Inc., received Court protection from its creditors, including the Class Members, under the *Companies' Creditors Arrangement Act* ("CCAA"), in February of 2012. The Representative Plaintiff in this Action preserved the rights of the Class as claimants against Arctic Glacier by filing a claim in Arctic Glacier's CCAA restructuring.

It is also important to note that the other Defendant to this action, Reddy Ice Holdings, Inc., sought creditor protection under Chapter 11 insolvency processes in the United States in April 2012.

The parties have signed a Settlement Agreement for the Action, which is subject to approval of the Court. Under the terms of the Settlement Agreement, Arctic Glacier, Inc. alone will pay a sum through the CCAA Proceeding, for distribution to certain Class Members ("the Settlement Amount"), in exchange for a full release of claims by the Class against the Defendants relating to the Action. The Settlement Amount will be up to \$2 million being the value of the accepted proof of claim in the CCAA proceedings, or a lower amount that will be paid if there is insufficient money in the Arctic Glacier CCAA process to pay the proof of claim and satisfy the settlement amount in full. The settlement is a compromise of disputed claims. The Defendants deny any wrongdoing, and this settlement does not mean that they did anything wrong.

At a hearing held in London, Ontario on July 11, 2013, the Ontario Superior Court of Justice certified the Action as a class proceeding for settlement purposes, and set an opt-out procedure. The Court also set September 6, 2013 at 2:30pm (EST) as the date for a further hearing in London, when the parties will ask the Court to approve the Settlement Agreement, which includes a Distribution Protocol for Class Members, and when the Plaintiff will ask the Court to approve fees for its lawyers in the amount of 30% of the Settlement Amount, plus litigation expenses and applicable taxes. In addition, a statutory levy of 10% of the Net Settlement Amount (the sum after the deduction of Counsel's approved fees and expenses) will be payable to the Ontario Class Proceedings Fund, which provided support to the Action.

Notice of the outcome of that settlement approval hearing will be available thereafter at the website address set out at the bottom of this Notice. There will be no further publications otherwise with respect to this settlement.

How will the Net Settlement Amount be distributed?

Under the terms of the Distribution Protocol, if approved, a portion of the Net Settlement Amount will be paid to the companies within the Class that purchased the largest amount of Packaged Ice within the Class Period (including companies that operate under a common Chain/Banner Group, who will be represented collectively by their Chain/Banner Entity). The Class Members to receive payments will be notified by a direct mailing and will not be required to file any request for payment.

The settlement share of those Class Members will be determined as a percentage of the Net Settlement Amount relative to the volume of their Packaged Ice purchases during the Class Period. The settlement share of a Chain/Banner Group will be distributed to its Chain/Banner Entity, which will be directed by the Court to utilize and if necessary distribute the settlement share paid to it within its Chain/Banner Group in a manner which is generally consistent with the pattern of Packaged Ice purchases made by the Chain/Banner Entity and/or its Chain/Banner Group members from Arctic Glacier, Inc., its parents, subsidiaries and affiliates during the Class Period.

Under the terms of the Distribution Protocol, any settlement share which is not distributed to Class Members for whatever reason will be distributed *cy pres* equally between the Retail Council of Canada and the Canadian Convenience Stores Association for the general benefit of those Class Members not designated to receive a direct payment from the Net Settlement Amount because the cost and difficulty of administering those smaller claims is prohibitive.

What are my rights?

A Class Member which does not want to be bound by the Settlement Agreement may opt out of the Action and retain any right they may have to commence an individual lawsuit against the Defendants, at their own risk and expense **(including the risk that any new lawsuit is already barred by certain Orders made in the insolvency proceedings entered into by both Defendants)**. A written request to opt out must be sent to counsel c/o Heather Rumble Peterson, Sutts, Strosberg LLP, 600 – 251 Goyeau Street, Windsor, Ontario, N9A 6V4, by mail, courier or facsimile (519-258-9527) postmarked on or before August 23, 2013 and must include: the Class Member's full name, address and telephone number; a signed request to be excluded from the Class Action; and a statement whether the Class Member does or does not intend to attempt to commence a lawsuit against the Defendants regarding the alleged conspiracy. A request to opt out from a Chain/Banner Store will only be effective if the Chain/Banner Entity opts out for its entire Chain/Banner Group. Companies which opt out will not be entitled to receive payment in the settlement.

Class Members which do not opt out will be bound by the Settlement Agreement, in exchange for the release of certain legal rights against the Defendants. Class Members which do not opt out may also object to the settlement, if they deliver a copy of their written objection to Class Counsel on or before August 23, 2013. Class Counsel undertakes to provide any submissions received to the Court.

Where can I get further information?

This notice contains only a summary of the Settlement Agreement, the opt-out procedure and the Distribution Protocol. If there is a conflict between the provisions of this notice and the Settlement Agreement and/or the approval Order, the terms of the Settlement Agreement and/or the approval Order shall prevail.

The Class is encouraged to review all relevant documents at www.iceantitrust.com. For questions that are not answered online, please contact Heather Rumble Peterson for the Class by email at packagediceclassaction@strosbergco.com or toll-free at 1-800-229-5323 ext. 8296. Do not contact the Ontario Court with any questions.

THIS NOTICE IS APPROVED BY ORDER OF THE SUPERIOR COURT OF JUSTICE FOR ONTARIO

Schedule C

METHOD OF DISSEMINATING NOTICE

The Notice at Schedule B shall be:

- i) disseminated by direct mail to 166 Class Members who have been identified by the Plaintiff and Arctic;
- ii) posted on the websites of Class Counsel, Alberta Counsel and Arctic, in French and English;
- iii) posted on the website of the Monitor for Arctic in the CCAA proceedings, in French and English; and
- iv) the Notice shall be published as a 1/8 page advertisement in the National Post and in French in La Presse following the issuance of the first Order.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT WINDSOR

Proceeding Under the *Class Proceedings Act*,
1992**ORDER
(Certification and Approval Notice)****HARRISON PENZA LLP**

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