

THE QUEEN'S BENCH
Winnipeg Centre

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

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

(collectively, the "APPLICANTS")

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

NOTICE OF MOTION
(CCAA Termination)

DATE OF HEARING: NOVEMBER 10, 2021, AT 9:00 A.M.
BEFORE THE HONOURABLE MR. JUSTICE KROFT

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

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

**NOTICE OF MOTION
(Motion for CCAA Termination
Returnable November 10, 2021)**

Alvarez & Marsal Canada Inc. in its capacity as Court-appointed Monitor of the Applicants (the "**Monitor**") will make a motion before the Honourable Mr. Justice Kroft on November 10, 2021 at 9:00 a.m., or as soon after that time as the motion can be heard, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba, via teleconference:

DIAL-IN INFORMATION SHALL BE CIRCULATED TO THE SERVICE LIST IMMEDIATELY UPON RECEIVING SAME FROM THE COURT

THE MOTION IS FOR:

1. An order, substantially in the form attached hereto as Appendix "1":
 - (a) validating service of the CCAA proceedings;
 - (b) terminating these CCAA Proceedings, with related relief;
 - (c) discharging Alvarez & Marsal Canada Inc. in its capacity as Monitor;
 - (d) discharging 7088418 Canada Inc. o/a Grandview Advisors as Chief Process Supervisor ("**CPS**");

- (e) approving the Thirty-Fourth Report of the Monitor dated November 3, 2021 (the “**Thirty-Fourth Report**”), and the Monitor’s activities as described therein; and
- (f) granting such further and other relief as this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

- 2. The provisions of the *Companies’ Creditors Arrangement Act* (“**CCAA**”).
- 3. The inherent and equitable jurisdiction of this Honourable Court.
- 4. Queen’s Bench Rules 2.03, 3.02(1), 16.04, 16.08, 37.06(6) and 37.08(2).

Background

- 5. Capitalized terms not defined herein shall have the meaning ascribed to them in the Thirty-Fourth Report.
- 6. On February 22, 2012, this Honourable Court granted protection to the Arctic Glacier Parties in the Initial Order pursuant to the CCAA.
- 7. On June 21, 2012, this Honourable Court granted an order, among other things, approving the Sale Transaction. The Sale Transaction closed on July 27, 2012.
- 8. On September 5, 2012, this Honourable Court issued the Claims Procedure Order that approved a claims process.
- 9. All Claims have been resolved.

10. On May 21, 2014, this Honourable Court issued the Meeting Order that authorized, *inter alia*: (i) the Arctic Glacier Parties to call the Creditors' Meeting; (ii) the deemed vote of Affected Creditors in favour of a resolution to approve the amended and restated consolidated plan of compromise or arrangement dated August 26, 2014 (and as it may be further amended, restated, modified or supplemented from time to time in accordance with its terms) (the "**Plan**"); and (iii) Arctic Glacier Income Fund to call, hold and conduct the Unitholders' Meeting.

11. Pursuant to the Meeting Order, the Trustees were deemed to have called a special meeting of Unitholders that was held and conducted on August 11, 2014 for the purpose of considering and voting on a resolution to, *inter alia*, approve the Plan. The Plan was supported by 99.81% of the Unitholders who voted in person or by proxy at the Unitholders' Meeting.

12. On September 5, 2014, this Honourable Court issued the Sanction Order approving and sanctioning the Plan.

13. The Applicant, with the assistance of the Monitor, implemented the Plan on January 22, 2015 (the "**Plan Implementation Date**"). Accordingly, on the Plan Implementation Date and pursuant to the Plan, the Monitor, on behalf of the Applicants, *inter alia*: (i) used the Available Funds to fund the reserves and distribution cash pools set out in the Plan; (ii) distributed the Affected Creditors' Distribution Cash Pool to each Affected Creditor in the amount of such creditor's claim; and (iii) transferred \$54,498,863.58 (the "**Initial Distribution**") from the Unitholders' Distribution Cash Pool to the Transfer Agent for distribution to Registered Unitholders as of December 18, 2014.

14. On January 26, 2015, the Monitor filed a certificate with the Canadian Court confirming that the conditions precedent set out in Section 10.3 of the Plan had been satisfied or waived in accordance with the Plan and that the Plan Implementation Date had occurred.

15. On June 2, 2015, this Honourable Court approved the Unitholder Claims Procedure Order.

16. All Unitholder Claims have been resolved.

17. On June 3, 2015, the Monitor filed a certificate confirming that all outstanding invoiced obligations, liabilities, fees and disbursements secured by the Charges in this proceeding as of the Plan Implementation Date had been paid and the Charges were deemed discharged from the assets of the Arctic Glacier Parties without the need for any further formality.

18. In accordance with the Order (Stay Extension) pronounced December 16, 2020 the stay period expires November 15, 2021.

19. In addition to the Initial Distribution, Unitholder Interim Distributions of CAD\$15 million and CAD\$5 million were made to Unitholders in December 2019 and September 2020, such that aggregate Unitholder Interim Distributions to-date total approximately USD\$54.5 million and CAD\$20 million, which distributions are over and above the amounts paid to secured and unsecured creditors whose claims were paid in full.

Validating Service

20. The service effected and notice provided has been sufficient to bring these proceedings to the attention of the recipients and it is appropriate in the circumstances for this Honourable Court to validate service and proceed with the hearing.

Terminating the CCAA Proceedings, Granting the Release, and Extending the Stay to the CCAA Termination Time

21. As is described in the Thirty-Fourth Report, the Arctic Glacier Parties and the Monitor have resolved the items that must be resolved before the estate can be wound down and the Monitor and CPS discharged.

22. In particular, the full year 2020 tax returns, nil stub period tax returns (collectively, the “**Final Returns**”), and the request for Clearance Certificates for both AGI and AGIF were filed on January 19, 2021. The Monitor notified the Service List and posted notice on the Website to confirm that the Final Returns had been filed on January 19, 2021.

23. Since the time of filing the Final Returns and requests for Clearance Certificates, two of the five required Clearance Certificates have been received:

- (a) the HST/GST Clearance Certificate for AGI from CRA has been received. There was no requirement for an HST/GST Clearance Certificate for AGIF from CRA, therefore, the HST/GST Clearance Certificate requirements for CRA have been completed; and

- (b) the Clearance Certificate for AGI from Revenu Quebec has been received. There was no requirement for a Clearance Certificate for AGIF from Revenu Quebec, therefore, the Clearance Certificate requirements for Quebec have been completed.

24. The Monitor notified the Service List and posted on the Website notice of receipt of the HST/GST clearance certificate and receipt of the Revenu Quebec clearance certificate.

25. However, three of the required Clearance Certificates remain outstanding.

26. As described in the Thirty-Fourth Report, it is appropriate to grant the CCAA Termination Order, pursuant to which, after the remaining Clearance Certificates are received and the Final Distribution has been made, the Monitor will serve upon the Service List a certificate (the “**Case Completion Certificate**”) certifying that the Final Distribution has been made, which will signify that it is the appropriate time to terminate these CCAA Proceedings as the administration of these Proceedings has been completed.

27. Taking this approach to termination of the CCAA Proceedings reduces the costs imposed on the estate as the Monitor is not required to appear before the Court to terminate the CCAA Proceedings.

28. In addition, given the passage of time, it is appropriate to include in the CCAA Termination Order a release of the Released Parties parallels the list of Released Parties in the Plan.

29. Lastly, it is appropriate to extend the stay to the CCAA Termination Time, which will allow the Monitor, in consultation with the Applicants, to among other things, continue implementing the steps contemplated by the Plan, including obtaining the remaining Clearance Certificates and making the Final Distribution.

Approving the Thirty-Fourth Report and the Monitor's Activities

30. In accordance with the practice that has developed, the stakeholders will have had a reasonable opportunity to review and take issue with the Thirty-Fourth Report and the activities described therein. Absent any significant objection, the Thirty-Fourth Report and the activities described therein should be approved by this Honourable Court.

31. It is just and convenient and in the interests of the Arctic Glacier Parties and their respective stakeholders that the Order sought be granted.

32. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The pleadings and proceedings herein;
2. The Thirty-Fourth Report;
3. Such further and other materials as counsel may advise and this Honourable Court may permit.

November 3, 2021

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TO: THE ATTACHED SERVICE LIST

SCHEDULE A - ADDITIONAL APPLICANTS

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

APPENDIX 1

THE QUEEN'S BENCH
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IN THE MATTER OF THE *COMPANIES' CREDITORS*
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ARCTIC GLACIER INC., ARCTIC GLACIER INTERNATIONAL INC. and the
ADDITIONAL APPLICANTS LISTED IN SCHEDULE "A" HERETO

(collectively, the "APPLICANTS")

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

ORDER
(CCAA Termination)

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THE QUEEN'S BENCH
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THE HONOURABLE MR.) WEDNESDAY, THE 10th DAY
)
JUSTICE KROFT) OF NOVEMBER, 2021

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR
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ARCTIC GLACIER INC., ARCTIC GLACIER INTERNATIONAL INC. and the
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(collectively, the "APPLICANTS")

ORDER

THIS MOTION made by Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as Court-appointed Monitor of the Applicants (the "**Monitor**") for an Order, *inter alia* (i); terminating these proceedings commenced pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), (ii) discharging A&M in its capacity as Monitor, and (iii) approving the Thirty-Fourth Report of the Monitor dated November 3, 2021 (the "**Thirty-Fourth Report**"), and the Monitor's activities as described therein; was heard this day at the Law Courts Building at 408 York Avenue, in the City of Winnipeg, in the Province of Manitoba.

ON READING the Notice of Motion and the Thirtieth-Fourth Report, and on hearing the submissions of counsel for the Monitor, counsel for the Applicants and Glacier Valley Ice Company, L.P. (together, the "**Arctic Glacier Parties**"), and ●, no

one appearing for any other party although duly served as appears from the Affidavit of Service, filed:

SERVICE

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

TERMINATION OF CCAA PROCEEDINGS

2. **THIS COURT ORDERS** that upon the Monitor serving on the service list and filing the Case Completion Certificate in substantially the same form as attached hereto as Schedule “B”, the within CCAA proceedings shall be automatically terminated effective on 12:01 am Central Time on the date of the Case Completion Certificate without any further act or formality (the “**CCAA Termination Time**”).

DISCHARGE OF THE MONITOR

3. **THIS COURT ORDERS** that notwithstanding any provision of this Order, effective on and from the CCAA Termination Time, A&M shall be discharged from its duties as Monitor and released from all claims relating to its activities as Monitor, whether before or after the date of this Order.

4. **THIS COURT ORDERS** that notwithstanding any provision of this Order, the CCAA Orders, the termination of the CCAA Proceedings or the discharge of the Monitor, nothing herein shall affect, vary, derogate from, limit or amend, and the

Monitor and its counsel shall continue to have the benefit of, the approvals and protections in favour of the Monitor and its counsel at common law or pursuant to the CCAA or any order issued in these CCAA proceedings (the “**CCAA Orders**”), all of which approvals and protections are expressly continued and confirmed, including in connection with any actions taken by the Monitor pursuant to this Order following the CCAA Termination Time.

5. **THIS COURT ORDERS** that notwithstanding the discharge of A&M as Monitor and the termination of these CCAA proceedings, the Monitor shall remain Monitor and have the authority to complete or address any matters that may be ancillary or incidental to the CCAA Proceedings following the CCAA Termination Time, and in connection therewith A&M and its counsel shall continue to have the benefit of all approvals and protections in favour of the Monitor at common law or pursuant to the CCAA and the CCAA Orders.

DISCHARGE OF THE CHIEF PROCESS SUPERVISOR

6. **THIS COURT ORDERS** that notwithstanding any provision of this Order, effective on and from the CCAA Termination Time, 7088418 Canada Inc. o/a Grandview Advisors shall be discharged from its duties as CPS and released from all claims relating to its activities as CPS, whether before or after the date of this Order.

7. **THIS COURT ORDERS** that notwithstanding any provision of this Order, the CCAA Orders, the termination of the CCAA Proceedings or the discharge of the CPS, nothing herein shall affect, vary, derogate from, limit or amend, and the CPS shall continue to have the benefit of, the approvals and protections in favour of the CPS

at common law or pursuant to the CCAA or the CCAA Orders, all of which approvals and protections are expressly continued and confirmed.

8. **THIS COURT ORDERS** that notwithstanding the discharge of 7088418 Canada Inc. o/a Grandview Advisors as CPS and the termination of these CCAA proceedings, the CPS shall remain CPS and have the authority to complete or address any matters that may be ancillary or incidental to the CCAA Proceedings following the CCAA Termination Time, and in connection therewith the CPS shall continue to have the benefit of all approvals and protections in favour of the CPS at common law or pursuant to the CCAA and the CCAA Orders.

RELEASE

9. **THIS COURT ORDERS** that, without in any way limiting the releases set out in Article 9 of the Consolidated CCAA Plan or contained in any CCAA Orders, the Arctic Glacier Parties; the Monitor, Alvarez and Marsal Canada Inc. and its affiliates; the CPS; the Trustees, the Directors and the Officers; each and every present and former employee who filed or could have filed an indemnity claim or a DO&T Indemnity Claim against the Arctic Glacier Parties; each and every affiliate, subsidiary, member (including members of any committee or governance council), auditor, financial advisor, legal counsel and agent thereof; and any Person claiming to be liable derivatively through any or all of the foregoing Persons (the “**Released Parties**”) are hereby released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders, including for injunctive relief or specific performance and compliance orders, expenses, executions

and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, including any and all claims in respect of the payment and receipt of proceeds and statutory liabilities of Trustees, Directors, Officers and employees of the Arctic Glacier Parties and any alleged fiduciary or other duty (whether acting as a Trustee, Director, Officer, member or employee or acting in any other capacity in connection with the Arctic Glacier Parties' business or an individual Arctic Glacier Party), whether known or unknown, matured or unmatured, direct, indirect or derivative, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing, or taking place on or prior to the CCAA Termination Time or completed pursuant to the terms of this Order, that are in any way related to, or arising out of or in connection with the Claims, the Arctic Glacier Parties' business and affairs whenever or however conducted, the Consolidated CCAA Plan, the CCAA Proceedings, any Claim that has been barred or extinguished pursuant to the Claims Procedure Order or the Claims Officer Order or the Unitholder Claims Procedure Order, and all claims arising out of such actions or omissions are hereby released, stayed, extinguished and forever barred (other than the right to enforce the Arctic Glacier Parties' obligations under the Consolidated CCAA Plan or any related document), all to the full extent permitted by applicable law, and the Released Parties, shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Released Parties.

10. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against the A&M in any way arising from or related to its capacity or conduct as Monitor except with prior leave of this Court on at least seven days' prior written notice to A&M and upon further order securing, as security for costs, the full indemnity costs of the Monitor in connection with any proposed action or proceeding as the Court hearing the motion for leave to proceed may deem just and appropriate.

RECORD RETENTION

11. **THIS COURT ORDERS** that all records of the Arctic Glacier Parties in the custody of the Monitor at the CCAA Termination Time may be destroyed at any time on or after two years and one day after the CCAA Termination Time, and that the Monitor is hereby authorized to take any additional steps and execute such additional documents as may be necessary or desirable to so destroy such records.

STAY EXTENSION

12. **THIS COURT ORDERS** that the Stay Period is hereby extended to the CCAA Termination Time.

MONITOR'S ACTIVITIES AND REPORTS

13. **THIS COURT ORDERS** that the Thirty-Fourth Report and the activities described therein are hereby approved.

GENERAL PROVISIONS

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

SCHEDULE “A”

ADDITIONAL APPLICANTS

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

SCHEDULE “B”

CASE COMPLETION CERTIFICATE

File No. CI 12-01-76323

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

RECITALS:

1. Pursuant to an Order of the Honourable Madam Justice Spivak of The Court of Queen’s Bench (Winnipeg Centre) dated February 22, 2012 (the “**Initial Order**”), Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as Monitor (the “**Monitor**”) in respect of an application filed by Arctic Glacier Income Fund (“**AGIF**”), Arctic Glacier Inc. (“**AGI**”), Arctic Glacier International Inc. (“**AGII**”) and those entities listed on Appendix “A” (collectively the “**Applicants**”, together with Glacier Valley Ice Company L.P., the “**Arctic Glacier Parties**”), seeking certain relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”).
2. Pursuant to an Order of the Honourable Mr. Justice Kroft of the Court dated November 10, 2021 (the “**Termination Order**”), the Court released and discharged the Monitor of its duties pursuant to the CCAA with effect upon the Monitor filing a certificate.
3. Unless otherwise defined herein, capitalized terms shall have the meaning set out in the Amended and Restated Consolidated Plan of Compromise or Arrangement of the Applicants dated January 21, 2015 (the “**Consolidated CCAA Plan**”).

THE MONITOR CERTIFIES the following:

1. All claims for undeliverable or uncashed distributions to Registered Unitholders have expired; and
2. Any remaining balance in the Administrative Costs Reserve or the Unitholders' Distribution Cash Pool that was not distributed by the Final Distribution Date on account of the cost of making any such distribution being prohibitive for so doing in relation to the quantum of the distribution contemplated in the Consolidated CCAA Plan has been paid to a charity in Winnipeg, Manitoba.

DATED ●

**Alvarez & Marsal Canada Inc., in its
capacity as Monitor**

By: _____
Name:
Title:

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

SERVICE LIST
(as of January 13, 2021)

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