

Objection Deadline: May 24, 2012 at 12:00 p.m. (prevailing U.S. Eastern Time)
Hearing Date and Time: May 31, 2012 at 2:00 p.m. (prevailing U.S. Eastern Time)

GIBSON, DUNN & CRUTCHER LLP

Michael A. Rosenthal (MR-7006)
Janet M. Weiss (JW-5460)
Matthew K. Kelsey (MK-3137)
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Proposed Attorneys for the Debtors
and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE:	:	Chapter 11
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ARCAPITA BANK B.S.C.(c), et al.,	:	Case No. 12-11076 (SHL)
	:	
Debtors.	:	Jointly Administered
	:	
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**DEBTORS' APPLICATION PURSUANT TO SECTIONS 327(a) AND 330 OF
THE BANKRUPTCY CODE FOR AN ORDER AUTHORIZING THE DEBTORS
TO RETAIN AND EMPLOY KPMG LLP AS VALUATION ADVISOR TO THE
DEBTORS NUNC PRO TUNC TO THE PETITION DATE**

Arcapita Bank B.S.C.(c) ("*Arcapita*"), and certain of its subsidiaries and affiliates, as debtors and debtors-in-possession (collectively, the "*Debtors*" and each, a "*Debtor*"), submit this application (the "*Application*") for entry of an order substantially in the form annexed hereto as *Exhibit A* pursuant to sections 327(a) and 330 of title 11 of the United States Code (the "*Bankruptcy Code*"), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*"), and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the Southern District of New York (the "*Local Rules*") authorizing the Debtors to retain and employ KPMG LLP, a United Kingdom limited

liability partnership (“**KPMG UK**”), as a valuation advisor to the Debtors *Nunc Pro Tunc* to March 19, 2012 (the “**Petition Date**”) and to compensate KPMG UK pursuant to section 330 of the Bankruptcy Code.

BACKGROUND

1. On the Petition Date, each of the Debtors commenced cases (the “**Chapter 11 Cases**”) under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or an examiner in the Chapter 11 Cases.

2. On April 5, 2012, the United States Trustee for the Southern District of New York appointed an Official Committee of Unsecured Creditors (the “**Creditors Committee**”) pursuant to section 1102 of the Bankruptcy Code.

3. Founded in 1996, Arcapita is a leading global manager of Shari’ah compliant alternative investments and operates as an investment bank. Arcapita is not a domestic bank licensed in the United States, nor does it have a branch or agency in the United States as defined in section 109(b)(3)(B) of the Bankruptcy Code. Arcapita is headquartered in Bahrain and is regulated under an Islamic wholesale banking license issued by the Central Bank of Bahrain. In addition to its Bahrain headquarters, the Arcapita Group, together with the other Debtors and their non-debtor subsidiaries, has offices in Atlanta, London, Hong Kong and Singapore in addition to its Bahrain headquarters. The Arcapita Group’s principal activities include investing for its own accounts and providing investment opportunities to third-party investors in conformity with Islamic Shari’ah rules and principles. The Arcapita Group also derives revenue from managing assets for its third-party investors.

4. The Arcapita Group has approximately \$7 billion in assets currently under management. As of the Petition Date, on a consolidated basis, the Arcapita Group owned assets valued at approximately \$3.06 billion¹ and had liabilities of approximately \$2.55 billion. Approximately \$1.1 billion of the Debtors' prepetition liabilities are comprised of that certain murabaha, Shari'ah-compliant syndicated facility, issued on March 28, 2007, which matured on March 28, 2012.

5. Additional information regarding the Debtors' business, capital structure, and the circumstances leading to the commencement of the Chapter 11 Cases is set forth in detail in the *Declaration of Henry A. Thompson in Support of the Debtors' Chapter 11 Petitions and First Day Motion and in Accordance with Local Rule 1007-2*, dated March 19, 2012 [Docket No. 6].

JURISDICTION AND VENUE

6. The Court has jurisdiction to consider this Application pursuant to 28 U.S.C. sections 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. section 157(b)(2). Venue is proper pursuant to 28 U.S.C. sections 1408 and 1409.

RELIEF REQUESTED

7. By this Application, the Debtors request entry of an order pursuant to sections 327(a) and 330 of the Bankruptcy Code, Bankruptcy Rule 2014(a) and 2016, and Local Rule 2014-1 authorizing the Debtors to retain and employ KPMG UK as a valuation advisor to the Debtors *nunc pro tunc* to the Petition Date, on the terms set forth herein and in that certain engagement letter between Arcapita and KPMG UK, dated April 25, 2012² and annexed hereto

¹ This includes Arcapita's beneficial interest in assets under management.

² The Engagement Letter superseded the engagement letter between Arcapita and KPMG UK, dated February 1, 2012 for prepetition valuation services.

as *Exhibit B* (the “*Engagement Letter*”).³ In support of the Application, the Debtors submit the declaration of David Fletcher (the “*Fletcher Declaration*”) annexed hereto as *Exhibit C*.

THE DEBTORS’ RETENTION OF KPMG UK

A. KPMG UK’s Qualifications

8. KPMG UK is a part of KPMG Europe LLP, a member firm of KPMG International (“*KPMG International Cooperative*”), a Swiss cooperative of member firms, each a separate legal entity, located worldwide. KPMG UK is renowned for its depth of experience and its ability to handle restructuring valuation issues in a complex, global-scale business environment. KPMG UK has extensive experience in, and an excellent reputation for, providing high-quality valuation services in bankruptcy reorganizations and other restructurings.

9. KPMG International Cooperative member firms’ global valuation services and restructuring teams comprise more than 2,700 professionals in over 60 countries.⁴ KPMG International Cooperative member firms, including KPMG UK, have expertise in a full range of complex commercial valuation issues in the context of domestic, international and cross-border restructurings, mergers and acquisitions, divestitures, financing transactions, strategic reviews, reorganizations, government mandated mergers, joint ventures and disputes.

10. KPMG UK and its professionals have extensive experience working with financially troubled companies from a range of industries in complex financial and operational restructurings, both in- and out-of-court. For instance, professionals of KPMG UK are providing or have provided valuation services in connection with the restructuring of numerous companies.

³ Except as specifically indicated herein, in the event of any inconsistencies between the description of KPMG UK’s engagement with the Debtors in this Application and the terms of the Engagement Letter, the Engagement Letter shall control.

⁴ See footnote 6 of the Fletcher Declaration for additional detail regarding KPMG International Cooperative and the relationships among its member firms.

Many of the out-of-court restructurings remain confidential, but some very recent representative examples of KPMG UK's in- and out-of-court valuations that are in the public domain are Dubai World, Dubai Group, Global Investment House, and The Peacocks Group.

11. Prior to the filing of the Chapter 11 Cases, KPMG UK performed, among other things, valuation services to the Debtors pursuant to an engagement letter ("**Prior Engagement Letter**"), which engagement was principally focused on a potential refinancing and/or restructuring of the Debtors' \$1.1 billion syndicated Murabaha facility. Under the Prior Engagement Letter, KPMG UK provided valuation services to the Debtors regarding certain private equity/infrastructure and real estate portfolio companies, including identifying key risks and opportunities in connection with their revised business plan and related financial model.

12. With the commencement of the Chapter 11 Cases, a more comprehensive restructuring is now contemplated that would encompass more than the Murabaha facility alone. The valuation services now required by the Debtors have accordingly expanded in scope and geography. The Debtors and KPMG UK therefore determined to terminate the Prior Engagement Letter, and have entered into the Engagement Letter, which reflects the necessary expanded valuation services.

13. The Debtors have selected KPMG UK as their valuation advisor based upon, among other things: (a) the Debtors' need to retain a valuation firm to provide advice with respect to the Debtors' restructuring activities, such as those listed above, and (b) the extensive experience and excellent reputation of KPMG UK's professionals in providing valuation services in complex, multi-national restructuring deals. Furthermore, as a result of the prepetition work performed on behalf of the Debtors, KPMG UK acquired significant knowledge of the Debtors and their businesses and is now intimately familiar with the Debtors' financial affairs, debt structure, operations and related matters. Likewise, in providing prepetition services to the Debtors, KPMG UK's professionals have worked closely with the Debtors' management and their other advisors. Accordingly, KPMG UK has experience, expertise and specifically relevant

knowledge regarding the Debtors that will assist it in providing effective and efficient services in the Chapter 11 Cases.

14. The Debtors believe that the services provided by KPMG UK will be critical to the Debtors' efforts to maximize the value of their estates and ultimately to the Debtors' success in the Chapter 11 Cases. KPMG UK, as an experienced valuation advisor, fulfills a critical need that complements the services offered by the Debtors' other restructuring professionals. Broadly speaking, KPMG UK's services will be limited to providing valuation services for the specific portfolio assets in which the Debtors hold interests – not in determining the Debtors' enterprise value, which will be provided by Rothschild Inc. and NM Rothschild & Sons Limited (collectively, "**Rothschild**") in the context of evaluating and developing strategic alternatives for the Debtors in connection with their ongoing restructuring efforts. The results of the KPMG UK's services will constitute an important component of the overall enterprise value, which will also be comprised of the value of the Debtors' propriety investment strategy and status as a bespoke Shari'ah compliant investment bank.

15. Further, the Debtors believe that KPMG UK is well qualified and able to represent the Debtors in a cost-effective, efficient and timely manner. Accordingly, retaining KPMG UK to provide valuation services is the most economical way to obtain such advice.

B. Scope of Services to be Provided

16. Subject to the direction of the Debtors and further order of this Court, and as set forth in the Engagement Letter, KPMG UK will undertake its valuation analysis on the basis of market value, defined as the price attainable between a willing buyer and willing seller. In forming its views on valuation, KPMG UK will consider the robustness of the underlying business plan and will utilize commercial valuation methodologies that KPMG UK determines to be appropriate for each individual company/investment in reaching its conclusion on value, including where appropriate:

17. Work relating to the review of the robustness of the underlying business plan assumptions:

- Review and comment on the commercial environment in which the entity operates, identifying key risks and opportunities that impact on current and medium term business value.
- Review and comment on the forecast trading (including appropriate analysis of the components of revenues and costs) and cash flows.
- Summarize and independently challenge the key assumptions that underpin the forecast trading in light of recent and current trading, and comment on the key value drivers underpinning the forecasts.
- Review and comment on the reasonableness or otherwise of the key assumptions, highlighting where appropriate areas of vulnerability, sensitivity or potential upside.
- Taking into account the above, comment on the adequacy of the entity's existing funding through to the proposed exit date, including the ability of the entity to operate within the terms of its existing facilities and the potential for any additional funding.

Valuation methodologies to be considered:

- Discounted Cash Flow (“DCF”): as applicable, assess value with reference to future projections, to be provided by management and any sensitivity analysis undertaken for the Business Plan Reviews (“BPRs”). This will include, inter alia:
 - derivation of an appropriate discount rate,
 - determination of an appropriate terminal value growth rate, and
 - consideration of the sensitivity of the valuation to small changes in key value drivers.
- Capitalized Earnings: assess value by reference to the capitalization of near-term normalized earnings at an appropriate multiple range with reference to:
 - the expected level of future operating performance of the business,
 - the life-cycle stage of the business as at the valuation date, and
 - reference to publically listed companies displaying similar characteristics and/or recent sector transactions.
- Adjusted Net Asset Value (“ANAV”): consider value with reference to the current financial position of the investee company with reference to:
 - marking every asset and liability on (and off) the balance sheet to current market values,
 - application of a premium or discount to reflect the profitability, the market position and overall attractiveness of the business, and

- comparison of net assets plus the premium or discount to the net asset value using price to book multiple for comparable quoted companies.
- An ANAV approach to value will be primarily applicable to real estate investments.
- Forced exit basis: assess the potential implications of the following issues that may be relevant in the event of a forced exit in a:
 - nonconsensual sale of a minority or non-controlling stake;
 - distressed sale and an assessment of discount applied by potential buyers;
 - scenario in which there is a lack of funding available to enable the underlying business to achieve its business plan or maintain its current capital structure.

KPMG UK's valuation analysis will consider valuation at two dates: the value of the companies/investments on current basis and the expected future value of the companies/investments based on Arcapita's anticipated exit date (or other date to be agreed between Arcapita and the Advisers) and own internal valuation analysis.

18. The services that KPMG UK will provide to the Debtors are necessary to enable the Debtors to maximize the value of their estates. All of the services that KPMG UK will provide to the Debtors will be undertaken at the request of the Debtors and will be appropriately directed by the Debtors so as to avoid duplicative efforts among the professionals retained in the Chapter 11 Cases. KPMG UK will also use reasonable efforts to coordinate, with the assistance of the Debtors, with the Debtors' other retained professionals to avoid the unnecessary duplication of services.

C. KPMG UK's Disinterestedness

19. To the best of the Debtors' knowledge, information and belief, other than in connection with these bankruptcy cases and except as set forth in the Fletcher Declaration, KPMG UK (a) has no connection with the Debtors, their creditors, or other parties in interest in the Chapter 11 Cases that would negatively impact KPMG UK's disinterestedness; (b) does not hold any interest materially adverse to the Debtors' estate; and (c) believes it is a "disinterested person" as defined by section 101(14) of the Bankruptcy Code.

20. KPMG UK has determined that it is not connected with the Debtors, their creditors, other parties in interest or the United States Trustee or any person employed by the Office of the United States Trustee in any way that would negatively materially impact KPMG UK's disinterestedness, and that the KPMG UK does not, by reason of any direct or indirect relationship to, connection with or interest in the Debtors or other parties in interest, hold or represent any interest adverse to the Debtors, their estates, or any class of creditors or equity holders and has no connections to the Debtors, their estates or any class of creditors or equity holders, except as set forth herein and in the Fletcher Declaration.

21. KPMG UK will conduct an ongoing review of its files during the pendency of the Chapter 11 Cases to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new material facts or relationships are discovered or arise, KPMG UK will provide the Court with a supplemental declaration.

22. KPMG UK is not a "creditor" of the Debtors within the meaning of Bankruptcy Code section 101(10).

23. Further, KPMG UK is not currently aware that any KPMG UK partner or principal is a holder of any shares of Arcapita Bank B.S.C.(c)'s stock.

24. Except as set forth herein or in the Fletcher Declaration, no commitments have been made or received by KPMG UK, nor any employee thereof, with respect to compensation or payment in connection with these cases other than in accordance with the provisions of the Bankruptcy Code, and KPMG UK has no agreement with any other entity to share with such entity any compensation received by KPMG UK in connection with these Chapter 11 Cases.

25. As set forth in the Fletcher Declaration, subject to Court approval, KPMG UK may continue to utilize the services of other KPMG firms affiliated with the KPMG International Cooperative. The continued use of member firms is critical to KPMG UK's ability to provide valuations across the many jurisdictions in which investments reside.

D. Professional Compensation

26. Subject to the Court's approval of this Application, the Debtors propose to pay KPMG UK at the following hourly billing rates:

<u>Position</u>	<u>Hourly Rate in USD \$</u>
Partner	950
Associate Partner and Director	840
Associate Director and Senior Manager	695
Manager	550
Assistant Manager	405
Senior Associate and Associate	305

27. In the event KPMG UK utilizes the services of other KPMG International Cooperative member firms, the hourly rates applicable to such services will be the lower of (a) "local" rates and (b) the rates set forth above.

28. KPMG UK's billing rates reflect an agreed discount of approximately 30% compared to its ordinary and customary hourly rates in effect on the date services are rendered. KPMG UK's hourly rates may change from time to time in accordance with KPMG UK's established billing practices and procedures. KPMG UK shall give notice prior to any increase in hourly rates. KPMG UK may also seek reimbursement of actual and necessary out-of-pocket expenses. Notwithstanding anything to the contrary in the Engagement Letter, KPMG UK has informed the Debtors that for expenses incurred during the pendency of the Chapter 11 Cases, KPMG UK will only seek reimbursement of actual and necessary out-of-pocket expenses in accordance with the Bankruptcy Code and any guidelines promulgated by the Office of the United States Trustee.

29. KPMG UK intends to maintain detailed, contemporaneous time records and apply to the Court for payment of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any additional procedures that may be established by the Court in this case. KPMG UK has agreed to accept as compensation such sums as may be allowed by the Court and understands that interim and final fee awards are subject to approval by this Court.

30. Prior to the Petition Date, KPMG UK received a payment on account of \$300,000 (the “*Retainer*”) from the Debtors for services to be rendered and for reimbursement of expenses to be incurred in connection with the Prior Engagement Letter. As of the Petition Date, the remaining amount of the Retainer was approximately \$238,750. KPMG UK intends to apply the Retainer to the amounts approved by the Court as compensation and reimbursement of expenses during the pendency of the Chapter 11 Cases, until the exhaustion of the Retainer.

31. The fee and expense agreement is consistent with and typical of compensation arrangements entered into by KPMG UK and other comparable firms in connection with rendering similar services under similar circumstances. The Debtors believe that the fee and expense agreement is in fact reasonable, market-based and designed to fairly compensate KPMG UK for its work and to cover fixed and routine overhead expenses.

E. Terms Negotiated, Customary and Reasonable

32. The terms and conditions of the Engagement Letter, including KPMG UK’s General Terms of Business and Additional Terms attached to the Engagement Letter (“*Engagement Provisions*”), were negotiated by the Debtors and KPMG UK at arm’s-length and in good faith. The Debtors and KPMG UK respectfully submit that such terms and conditions are customary and reasonable for financial advisory and investment banking engagements, both out of court and within chapter 11 cases. Specifically, the Engagement Provisions, as articulated in the Engagement Letter and the attached General Terms of Business and Additional Terms (and as reflected in the Proposed Order), reflect many of the qualifications and limitations that

are customary in this district and other jurisdictions.⁵ Further, when viewed in conjunction with the other terms of KPMG UK's proposed retention, the Engagement Provisions are reasonable and in the best interests of the Debtors' estates, creditors and all parties in interest.

33. Accordingly, as part of this Application, the Debtors request that this Court approve the terms of the Engagement Letter, including the Engagement Provisions as set forth therein and reflected in the Proposed Order.

BASIS FOR RELIEF REQUESTED

34. Section 327(a) of the Bankruptcy Code provides that a debtor in possession may, with the court's approval, employ professionals that do not hold or represent an interest adverse to the estate and that are "disinterested persons," as defined by section 101(14) of the Bankruptcy Code, to represent or assist the debtor in possession in carrying out its duties under the Bankruptcy Code. *See* 11 U.S.C. § 101(14). Additionally, section 1107(b) of the Bankruptcy Code provides that a professional is not disqualified for employment by a chapter 11 debtor in possession under section 327(a) of the Bankruptcy Code solely because its employment by or representation of the debtor before commencement of the case. *See* 11 U.S.C. § 1107(b).

⁵ *See, e.g., In re AMR Corporation*, Case No. 11-15463 (SHL) (Bankr. S.D.N.Y. Mar. 2, 2012) [Dkt. No. 1557]; *In re Charter Communications, Inc.*, Case No. 09-11435 (Bankr. S.D.N.Y. April 15, 2009) [Dkt. No. 181] (order authorizing the retention of AlixPartners); *In re Paper Int'l, Inc.*, Case No. 08-13917 (Bankr. S.D.N.Y. Oct. 31, 2008) [Dkt. No. 42] (order authorizing the retention of AP Services, LLC); *In re Dana Corporation*, Case No. 06-10354 (Bankr. S.D.N.Y. March 29, 2006) [Dkt. No. 740] (same); *In re Calpine Corp.*, Case No. 05-60200 (Bankr. S.D.N.Y. March 27, 2006) [Dkt. No. 1119] (same); *In re Parmalat USA Corp.*, Case No. 04-11139 (Bankr. S.D.N.Y. June 25, 2004) [Dkt. No. 494] (same); *In re FLYi, Inc.*, Case No. 05-20011 (MFW) (Bankr. D. Del. Jan. 12, 2006) [Dkt. No. 512] (order authorizing retention of Miller Buckfire & Co., LLC); *In re Foamex Intl.*, Case No. 05-12685 (PJW) (Bankr. D. Del. October 17, 2005) [Dkt. No. 203] (order authorizing retention of Miller Buckfire & Co., LLC); *In re Oakwood Homes Corp.*, Case No. 02-13396 (PJW) (Bankr. D. Del. July 21, 2003) [Dkt. No. 1620] (order authorizing retention of Miller Buckfire & Co., LLC); *In re United Artists Theatre Co.*, Case No. 00-3514 (SLR) (Bankr. D. Del. Nov. 14, 2000) [Dkt. No. 508] (order authorizing indemnification of Houlihan Lokey Howard & Zukin Capital, Inc.).

KPMG UK's services will enable the Debtors to execute faithfully their duties as debtors in possession, and are necessary to enable the Debtors to maximize the value of their estates and to ensure the success of their reorganization efforts. Further, KPMG UK is well-qualified and able to represent the Debtors in a cost-effective, efficient and timely manner. As stated above, the Debtors do not believe that KPMG UK holds or represents any interest adverse to the Debtors' estates, and they believe that KPMG UK is a "disinterested person" under the Bankruptcy Code. Accordingly, the Debtors submit that the retention of KPMG UK is in the best interests of the Debtors, their estates and their creditors and should be approved by the Bankruptcy Court.

NOTICE

35. No trustee or examiner has been appointed in the Chapter 11 Cases. The Debtors have provided notice of filing of the Motion by electronic mail, facsimile and/or overnight mail to: (i) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); (ii) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis Dunne, Esq. and Evan Fleck, Esq.); and (iii) all parties listed on the Master Service List established in these Chapter 11 Cases. A copy of the Motion is also available on the website of the Debtors' notice and claims agent, GCG, Inc., at www.gcginc.com/cases/arcapita.

NO PRIOR REQUEST

36. No prior motion for the relief sought in this Application has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 4, 2012

/s/ Michael A. Rosenthal
Michael A. Rosenthal (MR-7006)
Janet M. Weiss (JW-5460)
Matthew K. Kelsey (MK-3137)

GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

**PROPOSED ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION**

Objection Deadline: May 24, 2012 at 12:00 p.m. (prevailing U.S. Eastern Time)
Hearing Date and Time: May 31, 2012 at 2:00 p.m. (prevailing U.S. Eastern Time)

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Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Proposed Attorneys for the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE:	: Chapter 11
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	: Case No. 12-11076 (SHL)
ARCAPITA BANK B.S.C.(c), et al.,	:
	: Jointly Administered
Debtors.	:
-----X	

NOTICE OF DEBTORS' APPLICATION PURSUANT TO SECTIONS 327(a) AND 330 OF THE BANKRUPTCY CODE FOR AN ORDER AUTHORIZING THE DEBTORS TO RETAIN AND EMPLOY KPMG LLP AS VALUATION ADVISOR TO THE DEBTORS NUNC PRO TUNC TO THE PETITION DATE

PLEASE TAKE NOTICE that on May 4, 2012, the above-captioned debtors and debtors in possession (the "**Debtors**") filed the annexed *Debtors' Application Pursuant to Sections 327(a) and 330 of the Bankruptcy Code for an Order Authorizing the Debtors to Retain and Employ KPMG LLP as Valuation Advisor to the Debtors Nunc Pro Tunc to the Petition Date* (the "**Application**").

PLEASE TAKE FURTHER NOTICE that a hearing (the "**Hearing**") to consider the Application will take place before the Honorable Sean H. Lane, United States Bankruptcy Judge, in Room 701 of the United States Bankruptcy Court, One Bowling Green, New York, New York

10004-1408 (the “*Bankruptcy Court*”) on **May 31, 2012 at 2:00 p.m. (prevailing U.S. Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any and all objections to the Application (the “*Objections*”) shall be filed electronically with the Court on the docket of *Arcapita Bank B.S.C.(c), et al.*, Ch. 11 Case No. 12-11076 (SHL) (the “*Docket*”), pursuant to the Case Management Procedures approved by this Court and the Court’s General Order M-399 (available at <http://nysb.uscourts.gov/orders/orders2.html>), by registered users of the Court's case filing system and by all other parties in interest on a 3.5 inch disk, preferably in portable document format, Microsoft Word, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 on (i) proposed counsel for the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York, 10166 (Attn: Michael A. Rosenthal, Esq., Janet M. Weiss, Esq. and Matthew K. Kelsey, Esq.); (ii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); and (iii) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis Dunne, Esq. and Evan Fleck, Esq.), so as to be received no later than **May 24, 2012 at 12:00 p.m. (prevailing U.S. Eastern Time)** (the “*Objection Deadline*”).

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the Application, the Debtors may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Application, which order may be entered with no further notice or opportunity to be heard.

Dated: New York, New York
May 4, 2012

/s/ Michael A. Rosenthal
Michael A. Rosenthal (MR-7006)
Janet M. Weiss (JW-5460)
Matthew K. Kelsey (MK-3137)

GIBSON, DUNN & CRUTCHER LLP
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New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

**PROPOSED ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION**

EXHIBIT A
Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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IN RE: : **Chapter 11**
ARCAPITA BANK B.S.C.(c), *et al.*, : **Case No. 12-11076 (SHL)**
Debtors. : **Jointly Administered**
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**ORDER PURSUANT TO SECTIONS 327(a) AND 330 OF THE
BANKRUPTCY CODE AUTHORIZING THE DEBTORS TO RETAIN
AND EMPLOY KPMG LLP AS VALUATION ADVISOR TO THE
DEBTORS NUNC PRO TUNC TO THE PETITION DATE**

Upon consideration of the Application (the “*Application*”)¹ of Arcapita Bank B.S.C.(c), and certain of its subsidiaries and affiliates, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “*Debtors*” and each, a “*Debtor*”), for entry of an order pursuant to sections 327(a) and 330 of title 11 of the United States Code (the “*Bankruptcy Code*”), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”), and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the Southern District of New York (the “*Local Rules*”) authorizing the Debtors to retain and employ KPMG LLP (“*KPMG UK*”) as a valuation advisor to the Debtors *Nunc Pro Tunc* to the Petition Date; and upon the Fletcher Declaration in support thereof; and the Court having found that it has jurisdiction to consider this Application pursuant to 28 U.S.C. sections 157 and 1334; and the Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. sections 1408 and 1409; and the Court

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Application.

having found that the relief requested in the Application is in the best interests of Debtors' estates, their creditors, and other parties in interest; and notice of the Application and the opportunity for a hearing on the Application was appropriate under the particular circumstances; and the Court having reviewed the Application and having considered the statements in support of the relief requested therein at a hearing before the Court (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Application is granted to the extent set forth herein.
2. In accordance with sections 327(a) and 330 of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rule 2014-1, the Debtors are authorized to employ and retain KPMG UK *nunc pro tunc* to the Petition Date as their valuation advisor on the terms set forth in the Application.
3. As set forth in the Application and the Engagement Letter, KPMG UK shall perform the following services:
 - Review and comment on the commercial environment in which the entity operates identifying key risks and opportunities that impact on current and medium term business value.
 - Review and comment on the forecast trading (including appropriate analysis of the components of revenues and costs) and cash flows.
 - Summarize and independently challenge the key assumptions that underpin the forecast trading in light of recent and current trading, and comment on the key value drivers underpinning the forecasts.
 - Review and comment on the reasonableness or otherwise of the key assumptions, highlighting where appropriate areas of vulnerability, sensitivity or potential upside.
 - Taking into account the above, comment on the adequacy of the entity's existing funding through to the proposed exit date, including the ability of the entity to operate within the terms of its existing facilities and the potential for any additional funding.

4. KPMG UK shall be compensated for its services and reimbursed for any related expenses in accordance with KPMG UK's hourly rates and disbursement policies as set forth in the Application and in the Fletcher Declaration and the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, any guidelines promulgated by the Office of the United States Trustee, and any other applicable orders or procedures of this Court.

5. The Engagement Letter, including, without limitation, the Fee and Expense Structure and the Engagement Provisions, is approved in all respects except as otherwise set forth herein.

6. If at any time KPMG UK increases the rates for its services, KPMG UK will provide notice of such increases to the United States Trustee and will disclose the revised rates in subsequent fee applications.

7. KPMG UK will apply any remaining portion of the Retainer as a credit toward postpetition fees and expenses, as such postpetition fees and expenses become allowed and payable by the Debtors to KPMG UK pursuant to the procedures for interim compensation of professionals adopted by the bankruptcy Court in these Chapter 11 cases.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

9. While KPMG UK is employed by the Debtors during the pendency of these Chapter 11 Cases, to the extent the terms of this Order differ from the Engagement Letter, the Prior Engagement Letter, or the Application, the terms of this Order shall govern.

10. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York
_____, 2012

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B
Engagement Letter



KPMG LLP
Restructuring
8 Salisbury Square
London EC4Y 8BB
United Kingdom

Tel +44 (0) 20 7694 3297
Fax +44 (0) 20 7311 3311
DX 38050 Blackfriars
david.fletcher@kpmg.co.uk
Mobile 07887 821 152

Private & confidential

The Directors
Arcapita Bank B.S.C. (c)
Arcapita Building
Bahrain Bay
P.O.Box 1406
Manama
Kingdom of Bahrain

Our ref **df/gw**

25 April 2012

Dear Sirs

Project Antelope – Phase 2: Fee Letter

This letter forms part of our engagement letter dated 25 April 2012.

You will be responsible for the payment of our Charges, which are based upon the degree of responsibility and skill involved and the time necessarily occupied by our staff. Details regarding the calculation and payment of our Charges are set out in this letter.

Basis of fees

Our fees will be calculated on the basis of time spent by the Engagement Team, evaluated at discounted hourly rates in operation when the work is performed.

The discounted hourly rates applicable to this engagement for UK based team members at the time of this letter are:

<i>Grade</i>	<i>Hourly rate in USD \$</i>
<i>Partner</i>	<i>950</i>
<i>Associate Partner and Director</i>	<i>840</i>
<i>Associate Director and Senior manager</i>	<i>695</i>
<i>Manager</i>	<i>550</i>
<i>Assistant Manager</i>	<i>405</i>
<i>Senior Associate and Associate</i>	<i>305</i>



KPMG LLP
Project Antelope – Phase 2: Fee Letter
25 April 2012

Where we utilise team members from non-UK offices, the discounted hourly rates will be lower than those set out above. In such instances 'local' rates will apply.

The above rates will be fixed until 30 September 2012 and we may vary these rates after that date.

Outlays

Under clause 10 of our General Terms of Business outlays will include both directly incurred costs and an amount, equal to 2.5% of fees, to cover incidental expenses which are not charged directly to the engagement. For the purposes of this engagement we will not charge the 2.5% fee to cover incidental expenses. Significant expenses are likely to include travel and accommodation.

Payment

We will render invoices as our work progresses, on a monthly basis to cover our fees for the previous month, plus outlays and VAT. Our invoices will be paid in full upon presentation of each invoice, subject to the approval of the Bankruptcy Trustee and Creditors Committee.

Following our phase 1 engagement (pre-Chapter 11 filing) we currently hold a payment in account of c. \$240,000 which will be applied against our approved fees.

Failure to pay our invoices as set out above will be a fundamental breach of the Services Contract.

Assistance from Arcapita

In order to keep our fees to a minimum and to ensure that the Timetable can be achieved, we may require you to analyse internal management information or produce information that is not currently available. We will endeavour to provide you with advance notice of our requirements, and you should allocate sufficient management resources to ensure that our requirements are met on a timely basis. Additional fees or outlays may arise as a result of difficulties in obtaining information.

Please confirm your acceptance of the terms of this letter by signing and returning the enclosed copy. If there are any aspects that you wish to discuss, please contact David Fletcher.



KPMG LLP
Project Antelope – Phase 2: Fee Letter
25 April 2012

Yours faithfully

KPMG LLP

KPMG LLP

As authorised signatory of Arcapita Bank B.S.C. (c), I have read and understood the terms and conditions of this letter and of the Engagement Letter and its Appendices. I confirm that Arcapita Bank B.S.C. (c) agrees to and accepts them.

Signed: *Mohammed Chowdhury*
Name: *MOHAMMED CHOWDHURY*
Position: *EXECUTIVE DIRECTOR.*
Date:



KPMG LLP
Restructuring
8 Salisbury Square
London EC4Y 8BB
United Kingdom

Tel +44 (0) 20 7694 3297
Fax +44 (0) 20 7311 3311
DX 38050 Blackfriars
david.fletcher@kpmg.co.uk
Mobile +44 (0)7887 821 152

Private & confidential
The Directors
Arcapita Bank B.S.C. (c)
Arcapita Building
Bahrain Bay
P.O.Box 1406
Manama
Kingdom of Bahrain

Our ref df/gw

25 April 2012

Dear Sirs

Project Antelope – Phase 2

This letter and appended General Terms of Business and Additional Terms: Corporate Finance Services (“Engagement letter”) sets out the services that KPMG LLP will provide to Arcapita Bank B.S.C (c) (‘Arcapita’), and the terms and conditions on which those services will be provided.

Various other terms are defined in this letter and its Appendices.

1 Our Services

The services set out in Appendix 1 are described in this letter as the Services. Any work carried out by us prior to the date of this letter in connection with Project Antelope – Phase 2 will be regarded as forming part of the Services. The Services will be subject to the terms of this letter and its Appendices.

We draw your attention to the limitations on the scope of the Services, set out in Appendix 1

2 Timetable

A detailed timetable for the delivery of the Services (the Timetable) will be finalised following discussions with you and your advisers Gibson, Dunn & Crutcher LLP, Alvarez and Marsal, and N M Rothschild & Sons Limited (together ‘the Advisers’), but the submission of our draft reports is expected to take place during the week commencing 28 May 2012.

Our ability to meet the Timetable will be dependent upon our receiving without undue delay the full co-operation of the directors and other relevant personnel of Arcapita, its subsidiaries and portfolio companies, and upon the timely and accurate disclosure of all information that may be needed. We may also need access to the auditors and other professional advisors to Arcapita, its subsidiaries and portfolio companies, and their work papers, which you will authorise. We will



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25 April 2012*

inform you if we are unable to obtain the information that is needed, and of any consequent changes to the Timetable.

3 Engagement Team

The Engagement Team will be led by David Fletcher, and day to day management will be the responsibility of Gareth Williams. The Engagement Team will also include Douglas McPhee who will lead the work on indicative valuations and we will draw on additional resource from across the KPMG network as appropriate.

4 Our Charges

You will be responsible for the payment of our Charges, which are based upon the degree of responsibility and skill involved and the time necessarily occupied by our staff. Details regarding the calculation and payment of our Charges are set out in our separate Fee Letter dated 25 April 2012.

5. Regulated activities

The services we shall provide to you, in connection with this Engagement may amount to “regulated activities” under the Financial Services and Markets Act 2000 (“Act”).

In that context, we classify you as a “professional client”, for the purposes of the Conduct of Business Sourcebook Rules issued by the Financial Services Authority under the Act – and draw your attention to clauses 14 to 20 in the appended Additional Terms: Corporate Finance Services.

General Terms of Business

Our General Terms of Business, as set out in Appendix 3 and as amended below, will apply to this work and will govern our relationship with you. This letter is the Engagement Letter mentioned in the General Terms; please read these terms carefully as they include various exclusions and limitations on our liability and impose certain obligations on you. We draw your attention in particular to the following clauses of our General Terms and to the amendments applicable for this engagement:

Clause 4: This clause sets out the obligations imposed on us in respect of your Confidential Information. It also permits us to make general references to the Services for marketing or publicity purposes.

Clause 7: We confirm here that our work is performed for you alone and we set out restrictions on the extent to which you may share with others the product of our work or refer to our name.

Clause 12: This clause provides that you retain responsibility and accountability for a number of matters. You will not hold out any KPMG Person as being in a position of management and



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attendance by any KPMG Person at your board meetings will be restricted to those parts relating to discussion of the Services.

Clauses 18 to 24: These clauses set out our position where your interests may conflict with our other clients' interests, and clarify our responsibilities in relation to Confidential Information (as defined in clause 4) in the circumstances identified.

Clauses 31 to 35: These clauses set out the principal exclusions and limitations on our liability to you. For this engagement, our liability to you in connection with the Services will be limited, on the basis set out in our General Terms, to a maximum aggregate of the higher of: \$1.0 million; and total KPMG fees paid under the engagement (excluding outlays). If you wish to bring a claim against us, you must do so within four years.

Clause 37: For this engagement, the notice period referred to in this clause will be reduced from 30 days to immediate notice.

Please confirm your acceptance of the terms of this letter and the Appendices by signing and returning the enclosed copy. If there are any aspects that you wish to discuss, please contact David Fletcher.

Yours faithfully

KPMG LLP

Appendices:

- 1 Our Services
- 2 Portfolio companies/investments to be reviewed and valued
- 3 General Terms of Business
- 4 Additional Terms: Corporate Finance

As authorised signatory of Arcapita Bank B.S.C. (c), I have read and understood the terms and conditions of this letter and the Appendices, and confirm that Arcapita Bank B.S.C. (c) agrees to and accepts them including, but not limited to, the clauses relating to the limitation of liability of KPMG LLP.

Signed: MOE CHOWDHURY

Name: MOHAMMED CHOWDHURY

Position: EXECUTIVE DIRECTOR

Date:



*KPMG LLP
Project Antelope – Phase 2
25 April 2012*

Appendix 1 – Our Services

1 Introduction and objectives of work

Arcapita, together with its advisers Gibson, Dunn & Crutcher LLP, Alvarez and Marsal, and N M Rothschild & Sons Limited (together 'the Advisers'), is currently in the process of normalizing its business operations and developing a robust business plan in order to facilitate an orderly exit from Chapter 11.

As part of this process, Arcapita is seeking additional financial advisory support to include a thorough third party assessment of valuation of the portfolio companies/investments, including current value on a going concern and forced sale basis and future value on a planned exit date, on a going concern basis only. There is an expectation that the valuations and supporting analysis may be shared with other stakeholders, subject to appropriate contracts and arrangements being agreed. In any event, the valuations and supporting analysis could become discoverable documents in the Chapter 11 process.

We expect to work closely with Arcapita and the Advisers to deliver this work, and will draw extensively on the work we have already undertaken in relation to our Project Antelope engagement letter dated 1 February 2012. As appropriate we expect to have at the appropriate time further access to deal teams and/or management of the underlying businesses, but will agree this with Arcapita on an entity-by-entity basis.

2 Our work

KPMG will perform the following valuation work in respect of the portfolio companies/investments listed in Appendix 2 (to be amended from time to time by agreement with the company):

Indicative valuation

We will undertake our valuation analysis on the basis of market value, defined as the price attainable between a willing buyer and willing seller. In forming our views on valuation we will consider the robustness of the underlying business plan and will utilize commercial valuation methodologies as we consider appropriate for each individual company/investment in reaching our conclusion on value, including where appropriate:

Work relating to the review of robustness of underlying business plan assumptions:

- ❑ Review and comment on the commercial environment in which the entity operates identifying key risks and opportunities that impact on current and medium term business value.
- ❑ Review and comment on the forecast trading (including appropriate analysis of the components of revenues and costs) and cash flows.



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- Summarise and independently challenge the key assumptions that underpin the forecast trading in light of recent and current trading, and comment on the key value drivers underpinning the forecasts.
- Review and comment on the reasonableness or otherwise of the key assumptions, highlighting where appropriate areas of vulnerability, sensitivity or potential upside.
- Taking into account the above, comment on the adequacy of the entity's existing funding through to the proposed exit date, including the ability of the entity to operate within the terms of its existing facilities and the potential for any additional funding.

Valuation methodologies to be considered:

- Discounted Cash Flow (DCF): as applicable, assess value with reference to future projections, to be provided by management and any sensitivity analysis undertaken for the BPRs. This will include, inter alia:
 - derivation of an appropriate discount rate,
 - determination of an appropriate terminal value growth rate, and
 - consideration of the sensitivity of the valuation to small changes in key value drivers.
- Capitalized Earnings: assess value by reference to the capitalization of near-term normalized earnings at an appropriate multiple range with reference to:
 - the expected level of future operating performance of the business,
 - the life-cycle stage of the business as at the valuation date, and
 - reference to publically listed companies displaying similar characteristics and/or recent sector transactions.
- Adjusted Net Asset Value ('ANAV'): consider value with reference to the current financial position of the investee company with reference to:
 - marking every asset and liability on (and off) the balance sheet to current market values,
 - application of a premium or discount to reflect the profitability, the market position and overall attractiveness of the business, and
 - comparison of net assets plus the premium or discount to the net asset value using price to book multiple for comparable quoted companies.
- An ANAV approach to value will be primarily applicable to real estate investments.
- Forced exit basis: assess the potential implications of the following issues that may be relevant in the event of a forced exit in a:
 - non consensual sale of a minority on non-controlling stake;
 - distressed sale and an assessment of discount applied by potential buyers;



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- scenario in which there is a lack of funding available to enable the underlying business to achieve its business plan or maintain its current capital structure.

Our valuation analysis will consider valuation at two dates: the value of the companies/investments as at a current date and the expected future value of the companies/investments based on Arcapita's anticipated exit date (or other date to be agreed between Arcapita and the Advisers) and own internal valuation analysis.

Other review and valuation work

At the direction of Arcapita, and in consultation with the Advisers, we may provide other work as necessary. We anticipate this may include, but not be limited to, the review of other Companies/Investments not included in Appendix 2, and may include other ad hoc support work related the Chapter 11 process.

3 Reporting

At the conclusion of our work we will issue a written report(s) setting out our findings and conclusions for each of the companies/investments set out in Appendix [2]. We may also summarise our findings and conclusions in presentations. The written reports and the handouts that accompany the presentations constitute the Reports.

Our written valuation reports will be prepared on the basis that they will be shared with third parties such as the Unsecured Creditors' Committee and their advisers.

We will provide Arcapita with drafts of the Reports prior to their release and request confirmation that the information they contain is factually accurate. Where Arcapita fails to supply confirmations, or where we and Arcapita cannot agree on any matters, we may draw attention to this in the Reports as finally released.

We will also provide the Advisers on request with drafts of the Reports, for comment. We will reflect any comments made by the Advisers in the Reports as finally released only to the extent that we consider necessary.

In addition, we will provide Arcapita and the Advisers with periodic updates outlining progress made, highlighting issues coming to our attention and explaining how those issues have been or are to be resolved.

4 General limitations on scope

Focus of work

Our work will be directed towards the affairs of Arcapita and its interests in its subsidiaries and portfolio companies, where material. The Reports will not address any issues from the perspective of any subsidiary, unless otherwise stated.



*KPMG LLP
Project Antelope – Phase 2
25 April 2012*

Reliance on information

We will not verify the reliability or accuracy of any information obtained from you, other than as noted in 'Our work' above, although we will draw attention to any inconsistencies that come to light that we consider to be material.

Completeness of scope

The scope of the Services may not be sufficient to address all your concerns or issues nor may it result in the identification of all matters that may be of interest to you.

Forecasts

The directors of Arcapita will be responsible for the preparation of forecasts and for determining which assumptions to use. Our work will not provide any assurance, express or implied, that the forecasts will be achieved.

Third party advisers

When carrying out the Services we may require sight of specialist third party advice, and we may need to rely on that advice. You will choose, appoint, monitor and pay such third party advisers and we will have no responsibility in respect of those advisers or their work for you.



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Appendix 2 – Initial portfolio companies/investments to be reviewed and valued

Private Equity/Infrastructure

- Honiton
- CEPL
- Freightliner
- Viridian
- AGUD/Dalkia
- Falcon/Mobay
- PODS
- JJill
- Tensar
- Arcapita Ventures
- AIGC I
- Bijoux Turner
- 3PD
- Varel

Real Estate

- Lusail
- Riffa Views
- AEIY I
- AEID I
- AEID II
- Arc Japan
- AREIF
- Lux Res Dev



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- CEE Residential
- Fountains
- UK Senior Living Yielding I
- CapitaLand India (Navindia)
- Bahrain Bay I
- Bahrain Bay II
- Head Office



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25 April 2012

Appendix 3 – General Terms of Business

Our General Terms of Business are attached.



General Terms of Business

These General Terms of Business ("General Terms") apply to the delivery of services by KPMG to a client pursuant to a letter enclosing these General Terms and recording the engagement ("the Engagement Letter").

Definitions

Services means the services to be delivered by us under the Engagement Letter.

KPMG or we (or derivatives) means the KPMG contracting party as identified by the Engagement Letter.

Engagement Team means, collectively or individually, KPMG Persons (excluding corporate bodies, entities or firms) who is or are involved in delivering the Services.

You (and derivatives) means the addressee (or addressees) of the Engagement Letter.

Services Contract means the contract formed by the Engagement Letter and these General Terms, together with any appended documents or other terms applicable to the Services ("Additional Terms").

KPMG Persons means the KPMG contracting party, each and all of our partners, members, directors, employees and agents, as the case may be, together with any other body or entity controlled by us or owned by us or associated with us and each and all of its partners, members, directors, employees and agents and "KPMG Person" shall mean any one of them.

Other KPMG Person(s) means, collectively or individually, KPMG Persons who are not members of the Engagement Team.

Agents (when referable to KPMG) means persons whom we authorise to act on our behalf or whom we treat as our employees, and for whose conduct we accept responsibility, in connection with the Services.

Other Beneficiaries means any person or organisation identified in and for whom you sign the Engagement Letter (other than you) as a beneficiary of the Services or any product thereof.

These definitions shall apply wherever used in the Services Contract.

Our services and responsibilities

1. The Engagement Letter shall set out the Services to be delivered by us and associated matters and may vary these General Terms.
2. The Services shall be delivered with reasonable skill and care.
3. Where individuals to be involved in delivering the Services are named in the Engagement Letter, we shall use reasonable endeavours to ensure that they are so involved. We may substitute those identified for others of equal or similar skills but we shall consult you before doing so.
4. We may acquire sensitive information concerning your business or affairs in the course of delivering the Services ("Confidential Information"). We shall preserve the confidentiality of Confidential Information and we shall not disclose it beyond the Engagement Team unless permitted by you or by this clause. We shall comply with the confidentiality standards of the ICAEW

and we shall adhere to the confidentiality restrictions of any other UK authority with powers over us, as well as any obligations imposed on us by English law. We shall be entitled to comply with any requirement of English law, the ICAEW, or any other UK regulatory body with powers over us, to disclose Confidential Information. Information relating to you, to our relationship with you, and to the Services, including Confidential Information, may be shared by us with Other KPMG Persons, and may be accessed by other parties who facilitate the administration of our business or support our infrastructure. We shall remain responsible for preserving confidentiality if Confidential Information is shared with Other KPMG Persons or accessed by such other parties. This clause shall not apply where Confidential Information properly enters the public domain. This clause shall not prohibit our disclosure of Confidential Information, always privately and in confidence, to our professional indemnity insurers or advisers.

For the purposes of marketing or publicising or selling our services we may wish to disclose that we have performed work (including the Services) for you, in which event we may identify you by your name and we may indicate only the general nature or category of such work (or of the Services) and any details which have properly entered the public domain.

5. We may supply written advice or confirm oral advice in writing or deliver a final written report or make an oral presentation on completion of the Services. Prior to completion of the Services we may supply oral, draft or interim advice or reports or presentations but in such circumstances our written advice or our final written report shall take precedence. No reliance shall be placed by you on any draft or interim advice or report or any draft or interim presentation. Where you wish to rely on oral advice or on an oral presentation made on completion of the Services, you shall inform us and we shall supply documentary confirmation of the advice concerned.
6. We shall not be under any obligation in any circumstances to update any advice, report or any product of the Services, oral or written, for events occurring after the advice, report or product concerned has been issued in final form.
7. Any product of the Services released to you in any form or medium shall be supplied by us on the basis that it is for your benefit and information only and that, save as may be required by law or by a competent regulatory authority (in which case you shall, unless prohibited by law, inform us in advance), it shall not be copied, referred to or disclosed, in whole (save for your own internal purposes) or in part, without our prior written consent. The Services shall be delivered on the basis that you shall not quote our name or reproduce our logo in any form or medium without our prior written consent. You may disclose in whole any product of the Services to your legal and other professional advisers for the purposes of your seeking advice in relation to the Services, provided that when doing so you inform them that
 - disclosure by them (save for their own internal purposes) is not permitted without our prior written consent, and
 - to the fullest extent permitted by law we accept no responsibility or liability to them in connection with the Services.



8. Any advice, opinion, statement of expectation, forecast or recommendation supplied by us as part of the Services shall not amount to any form of guarantee that we have determined or predicted future events or circumstances.

Ownership

9. We shall retain ownership of the copyright and all other intellectual property rights in the product of the Services, whether oral or tangible, and ownership of our working papers. You shall acquire ownership of any product of the Services in its tangible form on payment of our Charges for any such product. For the purposes of delivering services to you or other clients, KPMG, the Engagement Team and Other KPMG Persons shall be entitled to use, develop or share with each other knowledge, experience and skills of general application gained through performing the Services.

Our charges

10. We shall render invoices in respect of the Services comprising fees, outlays and VAT thereon (where appropriate), plus any overseas taxes that might be payable thereon or deductible therefrom ("our Charges"). Details of our Charges and any special payment terms shall be set out in the Engagement Letter. Our fees shall be based on the degree of responsibility of our partners, members, directors, employees or agents, as the case may be, involved in delivering the Services, their skill and time spent by them in performing them and the nature and complexity of them. Outlays will include both directly incurred costs and an amount, equal to 2.5% of the value of time, to cover incidental expenses which are not charged directly to the engagement. Our Charges may differ from estimates or quotations that may have been supplied, which shall be provisional only.
11. In return for the delivery of the Services by us, you shall pay our Charges (without any right of set-off), on presentation of our invoice or at such other time as may be specified in the Engagement Letter.

11.1 We may charge interest on any outstanding balances at the statutory rate from time to time in force (this rate applying after as well as before any court award or judgement in our favour in respect of outstanding balances).

11.2 If the Services Contract is terminated or suspended, we shall be entitled to payment for outlays incurred to that time and to payment of fees for Services performed, plus VAT thereon (where appropriate). Our fees for Services performed shall in this event be calculated by reference to our hourly rates at the time of performance of such Services.

11.3 Where there is more than one addressee of the Engagement Letter, unless provision is made in the Engagement Letter for payment of our Charges by one of you or by a third party, all of you shall each be fully liable separately to pay our Charges as well as being so liable together as a group and we shall be entitled to call upon any of you and all of you for payment in full.

11.4 If we are required by any court or regulatory body to provide information or to produce documents relating in any way to the Services, in any proceedings or forum in which we are not

a party or participant, you shall pay our costs incurred in responding to any such requirement at our standard rates applicable at the time of responding, together with outlays including legal expenses, and VAT thereon (where appropriate).

Your responsibilities

12. Where there is more than one of you, this clause applies to each of you separately and not collectively. Notwithstanding our duties and responsibilities in relation to the Services, you shall retain responsibility and accountability for managing your affairs, deciding on what to do after receiving any product of the Services, implementing any advice or recommendations provided by us, and realising any benefits requiring activity by you.
13. Where you require us or the nature of the Services is such that it is likely to be more efficient for us to perform Services at your premises or using your computer systems or telephone networks, you shall ensure that all arrangements are made for access, security procedures, virus checks, facilities, licences or consents as may be required (without cost to us).
14. You shall not, directly or indirectly, solicit the employment of any of our partners, members, directors or employees, as the case may be, involved in performing the Services while the Services are being performed or for a period of 3 months following their completion or following termination of the Services Contract, without our prior written consent. This prohibition shall not prevent you at any time from running recruitment advertising campaigns nor from offering employment to any of our partners, members, directors or employees, as the case may be, who may respond to any such campaign.

Information

15. To enable us to perform the Services, you shall supply promptly all information and assistance and all access to documentation in your possession, custody or under your control and to personnel under your control where required by us. You shall use your best endeavours to procure these supplies where not in your possession or custody or under your control. You shall inform us of any information or developments which may come to your notice and which might have a bearing on the Services. You shall supply information in response to our enquiries (if any) to enable us to comply with our statutory responsibilities to make disclosures to relevant authorities in respect of money laundering and any other criminal activity that we may encounter during performance of the Services and any such disclosures may include Confidential Information.
16. We may rely on any instructions or requests made or notices given or information supplied, whether orally or in writing, by any person whom we know to be or reasonably believe to be authorised by you to communicate with us for such purposes. We may communicate with you by electronic mail where any such person wishes us to do so, on the basis that in consenting to this method of communication you accept the inherent risks (including the security risks of interception of or unauthorised access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices), that to the extent permitted by law we may intercept



such communications in order to monitor them for internal compliance or other statutory purposes, and that you shall perform virus checks. We may at your request send documents to an electronic storage facility hosted or controlled by you or at your direction, in which event you shall be responsible for security and confidentiality at such facility.

17. We may receive information from you or from other sources in the course of delivering the Services. To the fullest extent permitted by law, we shall not be liable to you for any loss or damage suffered by you arising from fraud, misrepresentation, withholding of information material or relevant to the Services or required by us, or other default relating to such information, whether on your part or that of the other information sources, unless such fraud, misrepresentation, withholding or such other default is evident to us without further enquiry.

Knowledge and conflicts

18. In clauses 18 to 24 "Barriers" means safeguards designed to facilitate the protection of each client's interests and may include (for example): separate teams, their geographical and operational separation and/or access controls over data, computer servers and electronic mail systems.
19. The Engagement Team shall not be required, expected or deemed to have knowledge of any information known to Other KPMG Persons which is not known to the Engagement Team.
20. The Engagement Team shall not be required to make use of or to disclose to you any information, whether known to them personally or known to Other KPMG Persons, which is confidential to another client.
21. KPMG Persons may be delivering services to, or be approached to deliver services to, another party or parties who has or have interests which compete or conflict with yours (a "Conflicting Party" or "Conflicting Parties").
22. KPMG Persons are and shall remain free to deliver services to Conflicting Parties, except that where the interests of the Conflicting Party conflict with yours specifically and directly in relation to the subject matter of the Services: the Engagement Team shall not deliver services to the Conflicting Party; and Other KPMG Persons may only deliver services to the Conflicting Party where appropriate Barriers are put in place. The effective operation of such Barriers shall constitute sufficient steps to avoid any real risk of a breach of our duty of confidence to you.
23. We seek to identify Conflicting Parties in the circumstances set out in clause 22. If you know or become aware that a KPMG Person is advising or proposing to advise such a Conflicting Party, you shall inform us promptly.
24. Where a party has engaged us to deliver services before you have done so and subsequently circumstances change, we may consider that, even with Barriers operating, your interests are likely to be prejudiced and we may not be satisfied that the situation can be managed. In that event we may have to terminate the Services Contract and we shall be entitled to do so

on notice taking effect immediately on delivery but we shall consult you before we take that step.

The Services Contract

25. The Services Contract sets out the entire agreement and understanding between you and us in connection with the Services. The Services Contract supersedes and relieves us from liability (if any) that might otherwise arise for any prior agreements, understandings, arrangements, statements or representations (unless made fraudulently) as to any facts or matters relating to KPMG or the Services. Any modifications or variations to the Services Contract must be in writing and signed by an authorised representative of each of us. If there is any inconsistency between the Engagement Letter and any other elements of the Services Contract, the Engagement Letter shall prevail. If there is any inconsistency between these General Terms and Additional Terms that may apply, the Additional Terms shall prevail. Nothing in the Services Contract shall operate to exclude any liability which we would otherwise have to you in respect of any statements made by us fraudulently prior to the date of the Services Contract.

Third party rights

26. The Services Contract shall not create or give rise to, nor shall it be intended to create or give rise to, any third party rights. No third party shall have any right to enforce or rely on any provision of the Services Contract which does or may confer any right or benefit on any third party, directly or indirectly, expressly or impliedly. The application of any legislation giving to or conferring on third parties contractual or other rights in connection with the Services Contract shall be excluded. No KPMG Person shall be a third party for the purposes of this clause.

Circumstances beyond your or our control

27. Neither we nor you shall be in breach of our contractual obligations or incur any liability to the other if we or you are unable to comply with the Services Contract as a result of any cause beyond our or your reasonable control. In the event of any such occurrence affecting one of us, that one shall be obliged as soon as reasonably practicable to notify the other, who shall have the option of suspending or terminating the operation of the Services Contract on notice taking effect immediately on delivery.

Waiver, assignment and sub-contractors

28. Failure by you or us to exercise or enforce any rights available to you or us shall not amount to a waiver of any rights available to you or us.
29. Neither of us shall have the right to assign the benefit (or transfer the burden) of the Services Contract to another party without the written consent of the other of us.
30. Subject to clauses 4 and 39, we shall have the right to appoint sub-contractors to assist us in delivering the Services but where any such sub-contractors are not KPMG Persons we shall consult you before doing so. Where we appoint sub-contractors under



this clause, we may share Confidential Information with them and for all purposes in connection with the Services Contract we shall accept responsibility for their activities which shall be deemed to be part of the Services.

Limitations on our liability

31. Our liability in connection with the Services Contract and the Services shall be limited in accordance with this clause.

In the particular circumstances of the Services set out in the Engagement Letter and subject to clause 33 and clause 34 below,

- the aggregate liability to you and to Other Beneficiaries of each and all KPMG Persons,
- in contract or tort or under statute or otherwise,
- for any loss or damage suffered by you (or by any such other party) arising from or in connection with the Services or the Services Contract,
- however the loss or damage is caused, including if caused by our negligence but not if caused by our fraud or other deliberate breach of duty,

shall be limited to the amount specified in the Engagement Letter.

32. Where there is more than one beneficiary of the Services ("Beneficiary") the limitation on our liability agreed under clause 31 to each Beneficiary shall be apportioned by them amongst them. No Beneficiary shall dispute or challenge the validity, enforceability or operation of clause 31 on the ground that no such apportionment has been so agreed or on the ground that the agreed share of the limitation amount apportioned to any Beneficiary is unreasonably low. In this clause, "Beneficiary" shall include you and Other Beneficiaries.
33. Subject always to the aggregate limitation on our liability in clause 31 above, our liability shall in aggregate be limited to that proportion of the total loss or damage, after taking into account contributory negligence (if any), which is just and equitable having regard to the extent of our responsibility for the loss or damage concerned, and the extent of responsibility of any other person also responsible or potentially responsible ("Other Person"). In order to calculate the proportionate share of our liability, no account shall be taken of any matter affecting the possibility of recovering compensation from any Other Person, including the Other Person having ceased to exist, having ceased to be liable, having an agreed limit on its liability or being impecunious or for other reasons unable to pay, and full account shall be taken of the responsibility to be attributed to any Other Person whether or not it is before the competent court as a party to the proceedings or as a witness.
34. We accept the benefit of the limitations in clauses 31, 32 and 33 above on our own behalf and in so doing we confer benefits on all KPMG Persons who may be or might have been involved in delivering the Services.

Any clauses in the Services Contract operating or which may operate to exclude or limit our liability in any respects shall not

operate to exclude or limit any liability which cannot lawfully be excluded or limited.

35. This clause shall apply to claims arising from or under the Services Contract.

35.1 You and Other Beneficiaries shall not bring any claim against any KPMG Person other than the KPMG contracting party in respect of loss or damage suffered by you or by Other Beneficiaries arising out of or in connection with the Services. This restriction shall not operate to limit or exclude the liability of the KPMG contracting party as a firm or company for the acts or omissions of any other KPMG Person.

35.2 Any claim from you or Other Beneficiaries in respect of loss or damage suffered as a result of, arising from or in connection with the Services Contract, whether in contract or tort or under statute or otherwise, must be made

- where Services have been delivered, within four years of the date on which the activity giving rise to the claim was performed
- if the Services Contract has been terminated, within four years of the date of termination (subject to the bullet point above)
- if the loss or damage is suffered as a result of, arising from or in connection with our unauthorised disclosure of Confidential Information, within four years of the date on which the unauthorised disclosure took place

and in any of these cases that shall be the date when the earliest cause of action (in contract or tort or under statute or otherwise) shall be deemed to have accrued in respect of the relevant claim. For the purposes of this clause a claim shall be made when court or other dispute resolution proceedings are commenced.

Third parties

36. If you breach any of your obligations under the Services Contract and there is any claim made or threatened against us by a third party, you shall compensate us and reimburse us for and protect us against any loss, damage, expense or liability incurred by us which results from or arises from or is connected with any such breach and any such claim. If any payment is made by you under this clause you shall not seek recovery of that payment from us at any time. In this clause "us" shall include all KPMG Persons and "you" shall include Other Beneficiaries.

Termination

37. Each of us can terminate the Services Contract or suspend its operation by giving 30 days' prior notice in writing to the other at any time. Termination or suspension under this clause shall not affect any rights that may have accrued for either of us before termination or suspension and all sums due to us shall become payable in full when termination or suspension takes effect.
38. The following clauses of these General Terms shall survive expiry or termination of the Services Contract: clauses 4, 5, 6, 7, 8, 9, 12, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45.



Data protection

39. The definitions and interpretations in the Data Protection Act 1998 ("the Act") shall apply to this clause. We shall process or arrange for processing of personal data on your behalf for the purposes of delivering the Services. For such purposes we shall have your authority to do so in accordance with this clause. We shall act on your instructions only (given for such purposes) and we shall comply at all times with the seventh principle in Part 1 of Schedule 1 to the Act as if applicable to us directly. We may also process or arrange for processing of personal data in order to support the maintenance of quality and standards in our work or to facilitate the administration of our business or to support our infrastructure. We shall answer your reasonable enquiries to enable you to monitor our compliance with this clause. We shall not sub-contract our processing of personal data (unless to KPMG Persons or other parties who are required to take equivalent measures when processing personal data) without your prior written consent.

Notices

40. Any notice to you or us delivered under the Services Contract shall be in writing and delivered by pre-paid first class post (or pre-paid overseas equivalent) to or left at our respective addresses appearing in the Engagement Letter (or such other address as may be notified in writing). Notices delivered by post shall be deemed to have arrived, where posted from and to addresses in the UK, on the second working day and where posted from or to addresses overseas, on the tenth working day, following the date of posting.

Severability

41. Each clause or term of the Services Contract constitutes a separate and independent provision. If any provisions of the Services Contract are judged by any court or authority of competent jurisdiction to be void or unenforceable, the remaining provisions shall continue in full force and effect.

Capacity

42. You agree to and accept the provisions of the Services Contract on your own behalf and as agent for Other Beneficiaries. You shall procure in such circumstances that any Other Beneficiaries shall act on the basis that they are a party to the Services

Contract, as if they had each signed a copy of the Engagement Letter and agreed to be bound by it. However, you alone shall be responsible for payment of our Charges.

43. We accept your agreement to and acceptance of the terms of the Services Contract (save for clauses 31, 32 and 33 above) on our own behalf and in so doing we confer benefits on all KPMG Persons.

Regulated activities

44. Where the Services (or part of the Services) amount to "regulated activities" under the Financial Services and Markets Act 2000, we shall inform you and set out the implications in the Engagement Letter or elsewhere in writing and Additional Terms including provisions referable to "regulated activities" shall apply.

Law and jurisdiction

45. The Services Contract shall in all respects be subject to and governed by English law and all disputes arising on any basis from or under the Services Contract shall be subject to the exclusive jurisdiction of the English courts.

Feedback on our performance

46. We aspire to embed in our culture the attributes that we feel distinguish our brand and contribute to the difference that you experience when you engage KPMG. We may invite you to provide feedback on our performance so that we can measure to what extent we meet our goals. If at any time you wish to discuss the Services or if you have a complaint about them, you are invited to telephone any partner or director identified in the Engagement Letter. If your problem is not resolved, you should contact David Matthews, our UK Head of Quality & Risk Management, by e-mail to david.matthews@kpmg.co.uk or by writing to him at 15 Canada Square, London E14 5GL or through our website at <http://www.kpmg.co.uk/clientcare> where you can also find details of information about us that we are required by regulations to make available to you. We will investigate any complaint promptly and do what we can to resolve the difficulties. If you are still not satisfied, you can refer the matter to the ICAEW and (in respect of "regulated activities" and ancillary services) to the Financial Ombudsman Service.



KPMG LLP
Project Antelope – Phase 2
25 April 2012

Appendix 4 – Additional Terms: Corporate Finance Services

Our Additional Terms: Corporate Finance Services are attached



Additional Terms: Corporate Finance Services

These Additional Terms supplement our General Terms of Business and apply where expressly incorporated in the Engagement Letter.

Where the Services are delivered by KPMG Corporate Finance, a division of KPMG LLP, the terms and conditions set out below shall apply. KPMG LLP is authorised and regulated by the Financial Services Authority, under registration no. 210513, in respect of investment business.

Rules, regulations and compliance

1. We shall be entitled to take such steps as we consider necessary in the course of delivering the Services to comply with any and all of the following, where applicable to the Services:
 - all legal and regulatory provisions, rulings, rules, regulations, requirements, practices, principles and guidance of or issued by our regulator, the Financial Services Authority, the London Stock Exchange or the UK Listing Authority (including where applicable the Listing, Prospectus and Disclosure Rules) which are in force at the time of delivery of the Services
 - the City Code on Takeovers and Mergers ("the City Code")
 - all rulings, rules, regulations, requirements, practices and guidance of or issued by the Panel on Takeovers and Mergers (the "Panel") which are in force at the time of delivery of the Services
 - the Guidance Notes published by the Institute of Chartered Accountants in England and Wales on Compliance with the City Code
 - the Financial Services and Markets Act 2000
 - the Code of Market Conduct
 - any other rules or regulations applicable to the Services which may be in force at the time of delivery of the Services.
 2. You shall comply with all legal and regulatory provisions in any jurisdiction applicable to the Services of which you are or ought reasonably to be aware and which are binding on you ("Legal Provisions"), including any made by or pursuant to the following:
 - the Financial Services and Markets Act 2000
 - the Companies Acts 1985-1989 and the Companies Act 2006
 - Chapter 36 Part V of the Criminal Justice Act 1993
 - the Listing, Prospectus and Disclosure Rules
 - the Alternative Investment Market Rules
 - the City Code
 - the Code of Market Conduct
- You shall procure that the following persons or organisations shall at all times comply with all Legal Provisions: each and all of your directors, officers, employees, agents, "associates",

persons "acting in concert" with you (as defined by the City Code, where applicable to the Services).

3. You shall ensure that you have or obtain all authorisations, consents and approvals of any governmental or other regulatory body or authority and all such other authorisations, consents and approvals as may be necessary to enable you to engage in any transaction or carry on activities in respect of which the Services are or may be supplied. You shall comply with any such authorisations, consents and approvals.

Dealings with third parties

4. In all dealings with third parties (save where in accordance with the Engagement Letter we act in the capacity of sponsor), we shall act either as your adviser or as an agent on your behalf and not as principal. We shall be entitled to make our advisory or agency capacity clear in all communications with third parties, including press releases and any public or other documentation.

Information and publicity

5. You shall ensure that all information ("Information") and all statements or expressions of opinion, intention or expectation ("Opinions")

5.1 provided to us in connection with any matter in respect of which we may or do supply advice and/or

5.2 to be included in any document, communication or announcement which is or may be issued in relation to any transaction or event in respect of which the Services are or may be supplied

shall (in the case of Information) be accurate and shall (in the case of Opinions) be held honestly and formed on reasonable grounds and shall (in the case of Information and Opinions) be complete in all material respects and shall not be misleading. You shall at our request provide written confirmation to us of such matters. In the case of sub-clause 5.1 above we may qualify the relevant advice, and in the case of sub-clause 5.2 above we may suspend delivery of the Services or withhold release of any relevant product of the Services, in either case until you have provided such written communication.

6. You acknowledge that you shall be solely responsible for any document, communication or announcement which is or may be issued in relation to any transaction or event in respect of which the Services are or may be supplied. You shall at our request provide written confirmation to us of such responsibility and if you fail to do so, we may suspend delivery of the Services or withhold release of any relevant product of the Services, in either case until you have provided such written communication.

You shall at our request take all reasonable steps to correct and/or withdraw any document, communication or announcement containing Information or Opinions which do not satisfy clause 5.



7. You shall provide or procure the provision of such evidence as we may require in order to satisfy ourselves that

7.1 any financial promotion that we may agree to approve on your behalf

7.2 any document, communication or announcement that we agree to issue on your behalf or that is to be issued in connection with any matter in respect of which we may or do supply advice

complies with any applicable law, rule or regulation. In the case of sub-clause 7.1 above we may withhold approval, and in the case of sub-clause 7.2 above we may decline to issue or advise, in either case until you have provided such written communication.

8. If the Services are delivered in respect of a Transaction (as defined in the Engagement Letter) which proceeds to completion.

8.1 you shall include reference to us (if we agree to the text of any such reference) in any press release, advertisement or other public record, whether virtual or actual, that may be issued by you

8.2 we may publicise or advertise or disclose our role in the transaction and when doing so we may refer to your name and any press release, advertisement or other public record, whether virtual or actual, that may be issued by you.

Confidential information

9. We may acquire Confidential Information

- prior to delivery of the Services but when the Services are in reasonable prospect
- when we are engaged to deliver the Services
- in the course of delivering the Services.

Notwithstanding clause 4 of our General Terms of Business, which shall continue to apply as varied by this clause, we may disclose Confidential Information at any time to any partners and any staff practising in KPMG's Corporate Finance practice and to any corporate finance practitioners in overseas members of the international network of professional services firms to which we belong (together "KPMG Corporate Finance Practitioners").

Other professional advisers

10. We shall be entitled, with your prior written consent, to appoint agents to assist us in delivering the Services and to include their fees and expenses (and any VAT thereon) as part of our Charges (and the definition of "our Charges" in clause 10 of our General Terms of Business shall be modified accordingly).

11. You shall be responsible for the nomination, appointment and payment of other professional advisers as may be required to advise you on a transaction or any matter in respect of which the Services are or may be supplied.

12. Where you agree, in the Engagement Letter or otherwise, that we may appoint solicitors ("the Solicitors") to advise us, you shall reimburse us promptly following our payment of fees and

expenses and VAT thereon charged by the Solicitors (which may be included as part of our Charges, clause 10 being further modified accordingly). Subject to the terms of your agreement that we may appoint the Solicitors, we shall be entitled to instruct the Solicitors to arrange for legal advice to be obtained from lawyers in foreign jurisdictions as may be required and you shall reimburse us promptly following our payment of fees and expenses (and taxes thereon, if any) charged by them (clause 10 being further modified accordingly).

13. We shall not be responsible or liable for the quality of, or the consequences of any errors or omissions in, advice or other services supplied by any agents appointed by us with your consent under clause 10 or any professional advisers appointed in accordance with clause 12 to advise you, save where any such agents or professional advisers have acted or omitted to act pursuant to express instructions from us and we have prior thereto been cautioned by them against their following such instructions.

Regulated activities

14. Where the Services (or part of them) amount to "regulated activities" under the Financial Services and Markets Act 2000 ("the Act"), as well as informing you of this in accordance with clause 44 of our General Terms of Business we shall in respect of such regulated activities classify you as a "retail client" or a "professional client", in each case as defined in the Conduct of Business Sourcebook Rules issued by the Financial Services Authority under the Act ("the Rules"). Your countersignature of the Engagement Letter (or other written classification issued by us to you) shall operate as your consent to such classification and as confirmation that you have understood the implications and that we have supplied all relevant information reasonably required by you. We shall comply with the Act and the Rules in our performance of regulated activities for you. This clause and clauses 15 to 20 inclusive below shall apply in respect of such regulated activities.

15. Where we have classified you as a retail client, you shall be entitled to the benefit of all protections available to you in that capacity under the Rules. As a retail client, provided you also meet the eligibility requirements under the respective rules you shall have rights to the Financial Ombudsman Service ("the Service") and the Financial Services Compensation Scheme ("the Scheme"). Further details are available on request, or alternatively on the Service's official website at www.fos.org.uk or the Scheme's official website at www.fscs.org.uk. Where under the Rules you qualify as a professional client we may (subject to your prior consent) elect to treat you as a retail client and classify you as such, and you may request such classification. Where you (following our election), or we (following your request), have consented to such classification you shall be entitled to the benefit of all protections available to retail clients under the Rules save that both the Service and Scheme may not be available to you.

16. Where under the Rules you qualify as a retail client but you have experience of and expertise in matters referable to the Services, we may (subject to your prior consent) elect to treat you as an



elective professional client and classify you as a professional client.

17. Where you have consented to classification as a professional client, you shall not be entitled to the same level of protection afforded to retail clients under the Rules. This shall mean that protection in the following areas shall not apply to you:

- **Packaged product and ISA disclosure:** the Rules on packaged product and ISA disclosure shall not apply.
- **Best execution:** We shall not have to arrange or effect any transaction for you on the best terms available. We shall not be required to prioritise the overall costs. When advising you on a transaction we shall assume that you are able to protect your own interests.
- **Risk warnings:** We shall assume that you have sufficient experience and knowledge to understand the risks involved, and can sometimes assume that you are financially able to bear any investment risks. In addition, we shall not need to warn you of the nature of any risks involved in any transactions which we may recommend for you or give you written risk warnings about any transactions.
- **Suitability:** When making personal recommendations, we shall assume that you can judge the suitability of our advice.
- **Appropriateness:** Where we assess the appropriateness of a product or service, we shall assume that you have sufficient knowledge and experience to understand the risks involved.
- **Your expertise:** We may have regard to your expertise, investment objectives and financial situation when complying with requirements under the regulatory system established under the Act that our communications must be fair, clear and not misleading.
- **Disclosures:** Where we or any other KPMG Persons receive financial rewards in respect of matters attributable to the Services, we shall not be obliged to disclose to you the basis, amount or nature of any such rewards. In addition, the polarisation rules and disclosure requirements relating to packaged products under the Rules shall not apply.
- **Lending to retail clients:** The restrictions on lending to retail clients under the Rules shall not apply.
- **Margin requirements:** The requirement to obtain a margin from retail clients in relation to contingent liability transactions and to close out positions where a margin call fails shall not apply.
- **Non-exchange traded securities:** We shall not be obliged to comply with the requirement to deal fairly with you in relation to the sale and subsequent purchase of non-exchange traded securities.
- **Financial promotions:** Our responsibility when issuing or approving financial promotions shall be limited to taking reasonable steps to ensure that the financial promotion concerned is fair, clear and not misleading. We may take into account your expertise in relation to this responsibility. Any restrictions on direct offer advertisements which apply to retail clients shall not apply to you.

- **Confirmation of transactions:** We shall not need to check whether you have received any confirmation of transactions sent by us to you.
- **Periodic statements:** We shall not be required to send you periodic statements as we are not an OPS firm.
- **Custody and client money:** We are not authorised to provide custody services or hold client money on your behalf but if we obtain such authorisation and deliver any such services to you we shall notify you of the terms on which we do so but we shall not need your prior consent to such terms.
- **Financial Ombudsman Service:** The Financial Ombudsman Service shall not be available to you.

18. Where commissions or other benefits become payable to us and are received by us in respect of regulated activities performed for you ("Commissions"), we will inform you of the nature of the Commissions, their amount and the terms of payment. We will own Commissions and we will be entitled to retain Commissions and reduce our fees proportionately. If Commissions exceed the amount of our fees, the excess will be refunded to you. Where renewal commissions are payable to us and are received by us, we will own them and retain them but not reduce our fees. We will not be obliged to account to you for any Commissions or renewal commissions but if you terminate any investment contract giving rise to Commissions and we have to make a repayment, we may invoice you for all or part of that repayment.

Our liability for regulated activities

19. In respect of regulated activities performed for you and any duty or liability that we may have to you under the regulatory system, the exclusions and limitations on our liability under clauses 31, 32, 33 and 35.2 of our General Terms of Business shall not apply.
20. Where the Services include activities that are not regulated the exclusions and limitations on our liability under clauses 31, 32, 33 and 35.2 of our General Terms of Business shall apply to our liability referable to any such non-regulated activities only.

Restrictions on announcements

21. You shall not, and you shall procure that each and all of your directors, officers, employees, agents, "associates" or persons "acting in concert" with you (as defined by the City Code, where applicable to the Services) shall not, take any material step or action in relation to, or procure or solicit the issue or publication of, any document, communication, announcement or statement relating to a transaction or any matter in respect of which the Services are or may be supplied, without our prior approval.
22. If there is a breach of clause 21, we shall be entitled to issue or publish such document, communication, announcement or statement relating to the transaction or matter concerned as we may think fit, without (in the absence of negligence, fraud or other deliberate breach of duty on our part) incurring any liability for the consequences



City Code transactions

23. This clause applies where the Services relate to a transaction within the scope of the City Code and the Services are to be delivered to the offeror. Where

23.1 we are precluded by the rules of a regulatory authority with which we are obliged to comply ("our Ethical Rules") from acting as lead adviser to a party to a transaction, and

23.2 we are unable to advise you in accordance with Rule 3.1 or Rule 3.2 of the City Code

an additional corporate finance adviser shall be requested to supply advice as lead adviser to the party concerned and to advise you in accordance with Rule 3.1 or Rule 3.2 of the City Code.

24. Where an additional corporate finance adviser agrees to supply advice under clause 23, we shall supply general supporting financial advice to you and general supporting financial assistance to the additional adviser concerned, subject to our Ethical Rules and to the City Code but without prejudice to the other terms of our General Terms of Business and these Additional Terms.

25. Where the City Code applies to the Services, we shall be obliged to comply with any requirement of the Panel to supply information, books, documents or other records concerning the Services and otherwise to render reasonable assistance to the Panel concerning the Services on request by the Panel. Your countersignature of the Engagement Letter shall constitute your authority to us to comply with any such requirements or requests of the Panel.

26. If the Panel makes a statement that it considers that the facilities of the securities markets in the United Kingdom should be withheld from you or you fail to comply with the City Code, we shall be entitled to terminate the Services forthwith by giving oral or written notice of immediate effect. Termination under this clause shall be without prejudice to any rights that may have accrued to us before termination and all sums due to us shall immediately on the giving of the notice become payable in full.

Securities' Issues

27. You shall be responsible for the promotion or marketing of a proposed issue. Decisions on pricing shall remain with you and, where applicable, the prospective underwriter of a proposed issue.

Identifying opportunities

28. Where the Services comprise or may include the introduction of an opportunity ("the Opportunity") to you, we shall not be required to make any enquiries as to the nature of the Opportunity.

29. There shall be no warranty or representation from us, expressed or implied, regarding the merits or suitability of the Opportunity for your purposes. You shall be responsible for conducting such investigations and analyses of the Opportunity as you may consider necessary.

30. The introduction by us of the Opportunity shall not constitute a recommendation by us, expressed or implied and accordingly we shall incur no responsibility or liability to you as a result of, arising from or in connection with our introduction of the Opportunity. This clause shall not operate to limit or exclude any liability which cannot lawfully be limited or excluded. Clause 31 and clause 32 of our General Terms of Business shall not apply to the Opportunity.

Valuations

31. Where parties ("the Parties") requiring a valuation appoint us to make one (and the Services include this) ("the Valuation"), each of the Parties shall provide written confirmation

31.1 of the factual accuracy, completeness and validity of any information supplied to us for the purposes of or in connection with the Valuation.

31.2 that neither of them is aware of any other information which may have a bearing on the Valuation.

32. Each of the Parties shall make available to the other all information supplied to us, to be used by the Parties solely for the purposes of the Valuation.

33. Where one of the Parties does not accept the accuracy, completeness or validity of information supplied to us by the other, the party objecting shall set out in writing and submit to the other its reasons. Until such time as agreement is reached between the Parties on the accuracy, completeness and validity of all information supplied to us, the Parties agree that we shall be unable to complete the Valuation and that we shall incur no liability for the consequences of that inability.

34. Our Additional Terms: Expert Determination Services shall apply to the Valuation.

Model work

35. Where the Services include "Model Work", being (in either case) the development by us, or the delivery by us of assistance to you in your development, of a financial or other model ("Model") for use by you in connection with the Services, the following limitations on the scope and nature of the Model Work shall apply.

35.1 Our Model Work shall be designed to provide a preliminary and supportive contribution to the Services and the Model shall not be designed for acceptance or use by you as a final product without a review of the Model's functionality and suitability for your purposes being commissioned by you and performed separately from and independently of the Model Work. You shall satisfy yourself that the Model is so constructed that it shall meet in all material respects your objectives, that the Model operates appropriately and effectively having regard to your purposes and requirements, and that you have supplied to us all comments and requests that you wish us to take into account in our Model Work.

35.2 Our Model Work shall be delivered in accordance with the scope agreed with you and the specifications (and changes



thereto) required by you and in so doing we shall enter input criteria or values supplied by you and we shall rely on assumptions supplied by you, without (in either case) checking their suitability, accuracy or completeness. The Model and its related output shall be intended to assist your understanding but shall not be designed to replace the exercise of professional and business judgment by you. We shall not make any assessment of the commercial merits, technical feasibility or compliance with any applicable legislation or regulation of use by you of the

Model in connection with the Services. We shall not monitor or advise on the effect on the Model or the Services of any modifications that may be made by you or by any other party to the Model after delivery of our Model Work.

Survival on termination

36. The following clauses of these Additional Terms shall survive expiry or termination of the Services Contract: clauses 1, 8 10, 12 to 22, 25, 30, 35 and 36.

EXHIBIT C
Fletcher Declaration

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
	:	
IN RE:	:	Chapter 11
	:	
ARCAPITA BANK B.S.C.(c), et al.,	:	Case No. 12-11076 (SHL)
	:	
Debtors.	:	Jointly Administered
	:	
-----X		

**DECLARATION OF DAVID FLETCHER IN SUPPORT OF DEBTORS’
APPLICATION PURSUANT TO SECTIONS 327(a) AND 330 OF THE BANKRUPTCY
CODE FOR AN ORDER AUTHORIZING THE DEBTORS
TO RETAIN AND EMPLOY KPMG LLP AS VALUATION ADVISOR TO
THE DEBTORS NUNC PRO TUNC TO THE PETITION DATE**

I, David Fletcher, being duly sworn, hereby depose and state as follows:

FOUNDATION

1. I am a Partner of KPMG LLP (“*KPMG UK*”), resident in the KPMG United Kingdom office, located in London. This declaration is submitted on behalf of KPMG UK pursuant to Rule 2014(a) of the Federal Bankruptcy Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) in connection with the application (“*Application*”)¹ by Arcapita Bank B.S.C.(c), and certain of its subsidiaries and affiliates, as debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “*Debtors*” and each, a “*Debtor*”) for entry of an order authorizing the Debtors to retain and employ KPMG UK as a valuation advisor to the Debtors. Unless otherwise stated, I have personal knowledge of the facts hereinafter set forth.²

¹ Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to them in the Application.

² Certain of the disclosures herein relate to matters within the personal knowledge of other professionals at KPMG UK and are based on information provided to me by them. In

THE DEBTORS' RETENTION OF KPMG UK

A. Qualifications of KPMG UK

2. KPMG UK is a part of KPMG Europe LLP, a member firm of KPMG International Cooperative, a Swiss cooperative of member firms, each a separate legal entity, located worldwide. Only KPMG UK and KPMG US (as defined below) are being retained in this matter.³ Member firms generally are locally owned and are responsible for their own liabilities. KPMG UK is renowned for its depth of experience and its ability to handle restructuring valuation issues in a complex, global-scale business environment. KPMG UK has extensive experience in, and an excellent reputation for, providing high-quality valuation services in bankruptcy reorganizations and other restructurings.

3. Prior to the filing of the Chapter 11 Cases, KPMG UK performed, among other things, valuation services to the Debtors pursuant to the Prior Engagement Letter, which engagement was principally focused on a potential refinancing and/or restructuring of the Debtors' \$1.1 billion syndicated Murabaha facility. Under the Prior Engagement Letter, KPMG UK provided valuation services to the Debtors for certain private equity/infrastructure and real estate portfolio companies, including identifying key risks and opportunities in connection with their revised business plan and related financial model.

4. With the commencement of the Chapter 11 Cases, a more comprehensive restructuring is now contemplated that would encompass more than the Murabaha facility alone. The valuation services now required by the Debtors have accordingly expanded in scope and

[Footnote continued from previous page]

addition, certain of the disclosures herein related to disinterestedness are based on the results of the conflict search conducted by professionals at KPMG US (defined below) as described below.

³ Certain corporate finance-related services will be provided by KPMG Corporate Finance, a division of KPMG UK. KPMG Corporate Finance is not a separate legal entity from KPMG UK.

geography. The Debtors and KPMG UK therefore have determined to terminate the Prior Engagement Letter, and have entered into the Engagement Letter, which provides for the necessary expanded valuation services.

5. KPMG UK understands that the Debtors selected KPMG UK as their valuation advisor because of KPMG UK's experience and reputation for providing valuation services in large, complex chapter 11 cases such as those listed below. Furthermore, as a result of the prepetition work performed on behalf of the Debtors, KPMG UK acquired significant knowledge of the Debtors and their businesses and is now intimately familiar with the Debtors' financial affairs, debt structure, operations and related matters. Likewise, in providing prepetition services to the Debtors, KPMG UK's professionals have worked closely with the Debtors' management and their other advisors. Accordingly, KPMG UK has experience and expertise and specifically relevant knowledge regarding the Debtors that will assist it in providing effective and efficient services in the Chapter 11 Cases. Moreover, KPMG UK believes that KPMG UK's services will assist the Debtors in achieving successful outcome of the Chapter 11 Cases.

B. Scope of Services

6. We will undertake our valuation analysis on the basis of market value, defined as the price attainable between a willing buyer and willing seller. In forming our views on valuation we will consider the robustness of the underlying business plan and will utilize commercial valuation methodologies as we consider appropriate for each individual company/investment in reaching our conclusion on value, including where appropriate:

7. Work relating to the review of robustness of underlying business plan assumptions:

- Review and comment on the commercial environment in which the entity operates identifying key risks and opportunities that impact on current and medium term business value.
- Review and comment on the forecast trading (including appropriate analysis of the components of revenues and costs) and cash flows.

- Summarize and independently challenge the key assumptions that underpin the forecast trading in light of recent and current trading, and comment on the key value drivers underpinning the forecasts.
- Review and comment on the reasonableness or otherwise of the key assumptions, highlighting where appropriate areas of vulnerability, sensitivity or potential upside.
- Taking into account the above, comment on the adequacy of the entity's existing funding through to the proposed exit date, including the ability of the entity to operate within the terms of its existing facilities and the potential for any additional funding.

Valuation methodologies to be considered:

- Discounted Cash Flow (“DCF”): as applicable, assess value with reference to future projections, to be provided by management and any sensitivity analysis undertaken for the Business Plan Reviews (“BPRs”). This will include, inter alia:
 - derivation of an appropriate discount rate,
 - determination of an appropriate terminal value growth rate, and
 - consideration of the sensitivity of the valuation to small changes in key value drivers.
- Capitalized Earnings: assess value by reference to the capitalization of near-term normalized earnings at an appropriate multiple range with reference to:
 - the expected level of future operating performance of the business,
 - the life-cycle stage of the business as at the valuation date, and
 - reference to publically listed companies displaying similar characteristics and/or recent sector transactions.
- Adjusted Net Asset Value (“ANAV”): consider value with reference to the current financial position of the investee company with reference to:
 - marking every asset and liability on (and off) the balance sheet to current market values,
 - application of a premium or discount to reflect the profitability, the market position and overall attractiveness of the business, and
 - comparison of net assets plus the premium or discount to the net asset value using price to book multiple for comparable quoted companies.
- An ANAV approach to value will be primarily applicable to real estate investments.
- Forced exit basis: assess the potential implications of the following issues that may be relevant in the event of a forced exit in a:
 - nonconsensual sale of a minority or non-controlling stake;
 - distressed sale and an assessment of discount applied by potential buyers;

- scenario in which there is a lack of funding available to enable the underlying business to achieve its business plan or maintain its current capital structure.

Our valuation analysis will consider valuation at two dates: the value of the companies/investments as at a current date and the expected future value of the companies/investments based on Arcapita's anticipated exit date (or other date to be agreed between Arcapita and the Advisers) and own internal valuation analysis.

C. Professional Compensation

8. Subject to the Court's approval, KPMG UK intends to (a) charge for its professional services on an hourly basis in accordance with its agreed discounted hourly rates in effect on the date services are rendered,⁴ and (b) seek reimbursement of actual and necessary out-of-pocket expenses. KPMG UK's hourly rates may change from time to time in accordance with KPMG UK's established billing practices and procedures. KPMG UK will disclose any increases in hourly rates. KPMG UK will maintain detailed, contemporaneous records of time spent, as well as any actual and necessary expenses incurred, in connection with the rendering of the services described above by category and nature of the services rendered. Although the Engagement Letter contemplates that certain expenses will be reimbursed by charging a 2.5% surcharge on KPMG UK's hourly fees, for expenses incurred during the pendency of the Chapter 11 Cases, KPMG UK will only seek reimbursement of actual and necessary out-of-pocket expenses in accordance with any guidelines promulgated by the Office of the United States Trustee.

9. KPMG UK intends to apply to the Court for payment of compensation and reimbursement of expenses in accordance with the procedures set forth in the applicable provisions of section 330 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and the guidelines promulgated by the Office of the United States Trustee, as those procedures may

⁴ The hourly rates charged by KPMG UK professionals differ based on, among other things, the professional's level of experience.

be modified or supplemented by order of this Court.

10. Prior to the Petition Date, KPMG UK received a payment on account of \$300,000 (the “*Retainer*”) from the Debtors for services to be rendered and for reimbursement of expenses to be incurred in connection with the Prior Engagement Letter. As of the Petition Date, the remaining amount of the Retainer was approximately \$238,750. KPMG UK intends to apply the Retainer to the amounts approved by the Court as compensation and reimbursement of expenses during the pendency of the Chapter 11 Cases, until the exhaustion of the Retainer.

11. According to KPMG UK’s books and records, during the one year period prior to the Petition Date, KPMG UK received payments totaling approximately \$1,373,063.34⁵ including the Retainer from the Debtors for professional services performed and expenses incurred. Set forth below is a detailed listing of all payments received from the Debtors during the 12 months prior to the Petition Date:

Date	Amount Received
February 23, 2012	\$300,000.00
March 13, 2012	\$860,411.96
March 16, 2012	\$212,651.38
Total:	\$1,373,063.34

D. KPMG UK’s Disinterestedness and Eligibility

12. In connection with the preparation of this Declaration, KPMG UK conducted an analysis to determine whether any member of the KPMG UK team serving the Debtors holds or represents any interests materially adverse to the Debtors. This analysis

⁵ At the request of the U.S. Trustee and only for purposes of the Application, and this Declaration, all amounts in this Declaration have been converted into U.S. dollars based on the U.S. Dollar/British Pound Sterling currency exchange rate, in effect as of April 24, 2012, of US\$1.6150 per • 1.00. The actual US dollar conversion amount will depend on the exchange rate in effect as of the date of application.

consisted of seeking positive confirmation from members of the KPMG UK engagement team serving the Debtors, with the Debtors, their non-debtor affiliates, and certain entities holding large claims against or interests in the Debtors that were made reasonably known to KPMG UK by the Debtors.

13. In addition, based upon information supplied by Debtors' counsel, the United States member firm of KPMG International Cooperative ("*KPMG US*") searched KPMG International Cooperative's global conflict internal computer database from May 2, 2005 and forward to identify any connection or relationship between KPMG UK with the parties listed on Schedule 1 to this Declaration, attached hereto and incorporated herein. This review consisted of queries of an internal computer database containing names of individuals and entities that are present or recent and former clients of KPMG UK in order to identify potential relationships.⁶ This database includes engagement activity or potential engagement activity from May 2, 2005 forward. A summary of those current potential relationships that KPMG UK was able to identify using its reasonable efforts is reflected in Schedule "2" attached hereto.⁷ On an ongoing basis, KPMG UK will conduct further reviews of its professional contacts as it becomes aware of new

⁶ As set forth in paragraph 2, KPMG UK is a part of KPMG Europe LLP, a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative. While KPMG UK is a separate and distinct legal entity from all other member firms of KPMG International Cooperative, in an attempt to identify conflicts among or between KPMG International member firms, KPMG International Cooperative has a global conflict internal computer database related to the engagement activity or potential engagement activity of a majority of such member firms since May 2, 2005 that allows KPMG International member firms to identify potential conflicts between other KPMG International member firms. Financial information pertaining to engagement activity is the proprietary and confidential information of each individual member firm and KPMG UK does not have any legal right to access, or if accessed, disclose, such information relating to other KPMG International member firms.

⁷ Schedule "2" contains a list of the relationships or potential relationships of all KPMG International member firms (as opposed to solely KPMG UK) and one or more of the parties set forth on the conflicts checklist.

parties of interest, as is stated below. To the best of my knowledge and based upon the results of the relationship search described above and disclosed herein, KPMG UK neither holds nor represents an interest adverse to the Debtors' estates.

14. To the best of my knowledge, KPMG UK is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, in that KPMG UK:

- a) is not a creditor, an equity security holder, or an insider of the Debtors;
- b) is not and was not, within two years before the date of filing of these Chapter 11 Cases, a director, officer, or employee of the Debtors; and
- c) does not have an interest materially adverse to the interest of the Debtors' estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors or for any other reason.

15. To the best of my knowledge, except as set forth herein and in Schedule 2 attached hereto and incorporated herein by reference or described herein, KPMG UK has no connections with the creditors, any other party-in-interest, or their respective attorneys and accountants.

16. KPMG UK has in the past been retained by, and presently provides and likely in the future will provide services for, certain creditors of the Debtors, other parties-in-interest and their respective attorneys and accountants in matters unrelated to such parties' claims against the Debtors or interests in these Chapter 11 Cases. KPMG UK currently performs, has previously performed or may have performed such services for the entities listed in Schedule "2," however, except as disclosed herein, such services, to the extent performed by KPMG UK, are unrelated to the Debtors or their Chapter 11 Cases.

17. Based upon the results of the review described above, and to the best of

my knowledge, except as discussed below, none of the members of the KPMG UK engagement team serving the Debtors have represented any of the parties listed in Schedule 1 in connection with matters relating to the Debtors, their estates, assets, or businesses and will not represent other entities which are creditors of, or have other relationships to, the Debtors in matters relating to the Chapter 11 Cases except as set forth herein.

18. KPMG UK has been engaged by a potential acquirer of a non-Debtor entity in which the Debtors have own a minority interest.

19. One member of the KPMG UK engagement team working on this engagement has in the past provided services to two creditors listed on Schedule "1" in connection with matters pertaining to an entity in which the Debtors have an investment.

20. KPMG UK has not provided, and will not provide, any professional services to any of the creditors, other parties-in-interest, or their respective attorneys and accountants with regard to any matter related to these Chapter 11 Cases.

21. KPMG UK cannot assure that an engagement will not be accepted by a foreign member firm of KPMG International Cooperative for another party that may bear upon KPMG UK's engagement by the Debtors. However, to the extent KPMG UK is aware of such engagement and believes such engagement may bear upon KPMG UK's engagement by the Debtors, KPMG UK will file a supplemental declaration with the Bankruptcy Court.

22. KPMG US is being engaged by the Debtors in this bankruptcy proceeding. To the best of KPMG UK's knowledge, the Debtors have filed an application to retain KPMG US in connection with that engagement. The services to be provided by KPMG US do not overlap with the services contemplated to be provided by KPMG UK.

23. Gibson, Dunn & Crutcher, which is proposed counsel to the Debtors, represents KPMG US in a securities class action litigation pending in the federal district court for the District of Columbia captioned *In re Fannie Mae Securities Litigation*, Consolidated Civil Action No. 1:04-cv-01639 (Judge Richard J. Leon).

24. The German member firm of KPMG International Cooperative (“*KPMG Germany*”) is currently advising a client that is undergoing a restructuring. In connection with that effort, KPMG Germany is assisting that client in renegotiating its loan terms with Arcapita Bank. No KPMG Germany professionals will be involved in the KPMG UK engagement for the Debtors. Another member firm of KPMG International Cooperative is providing due diligence assistance to a potential buyer of a subsidiary of Arcapita Bank. No professionals from this member firm will be involved in the KPMG UK engagement for the Debtors.

25. In addition, KPMG UK may continue to utilize the services of other KPMG firms affiliated with the KPMG International Cooperative. KPMG UK will reimburse such other firms directly. The continued use of member firms is critical to KPMG UK’s ability to provide valuations across the many jurisdictions in which investments reside.

26. During the pendency of these cases, KPMG UK may employ independent contractors to provide professional services to the Debtors or otherwise with respect to these Chapter 11 Cases. KPMG UK agrees that it will not profit from the use of such persons.

27. As part of its practice, KPMG UK appears in many cases, proceedings, and transactions involving many different law firms, financial consultants, and investment bankers in matters unrelated to these bankruptcy cases. KPMG UK has not identified any material relationships or connections with any law firm, financial consultant or investment banker involved in these Chapter 11 Cases that would cause it to be adverse to the Debtors, the Debtors’ estates, any creditor or any other party-in-interest. If and when additional information becomes available with respect to any other relationships which may exist between KPMG UK, foreign member firms of KPMG International Cooperative, or their partners and professionals and the Debtors, creditors, or any other parties in interest which may affect these cases, supplemental declarations describing such information shall be filed with this Court.

28. I believe KPMG UK is not a “creditor” of any of the Debtors within the meaning of section 101(10) of the Bankruptcy Code. Further, and to the best of my knowledge,

neither I nor any member of the KPMG UK's engagement team serving the Debtors is a holder of any shares of Arcapita Bank B.S.C.(c)'s stock.

29. To the best of my knowledge, the members of the KPMG UK engagement team serving the Debtors are not relatives of and have no known connection with the United States Trustee for the Southern District of New York (the "*U.S. Trustee*") or of any known employee in the office thereof, or any United States Bankruptcy Judge of the Southern District of New York.

30. Furthermore, to the best of my knowledge the KPMG UK engagement team serving the Debtors neither holds nor represents an interest materially adverse to the Debtors.

31. If any new material relevant facts or relationships are discovered or arise, KPMG UK will promptly file a supplemental declaration pursuant to Bankruptcy Rule 2014(a).

32. To the best of my knowledge, (a) no commitments have been made or received by KPMG UK with respect to compensation or payment in connection with the Chapter 11 Cases other than in accordance with the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, and (b) except as disclosed herein, KPMG UK has no agreement with any other entity to share with such entity any compensation received by KPMG UK in connection with the Chapter 11 Cases.

33. Pursuant to 28 U.S.C. section 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated this 4th day of May, 2012

By: _____ /s/ David Fletcher
David Fletcher
Partner

SCHEDULE 1
List of Interested Parties

SCHEDULE 1 – LIST OF INTERESTED PARTIES

(i) Debtor and non-debtor affiliates:

Arcapita Bank B.S.C.(c)
Arcapita Investment Holdings Limited
Arcapita LT Holdings Limited
WindTurbine Holdings Limited
AEID II Holdings Limited
RailInvest Holdings Limited
AEI II Cayman Holdings Limited
AEI II Holdings Limited
AHQ Cayman Holdings Limited
AIA Limited
AIDT India Holdings Limited
AIFL Investment Holdings Limited
AMPAD Holdings Limited
AquaInvest Holdings Limited
ARC (Cayman) Real Estate Fund Holdings Limited
ARC Management Limited
Arcapita (Europe) Limited
Arcapita (HK) Limited
Arcapita (Singapore) Limited
Arcapita (US) Limited
Arcapita Fund Administration Services Limited
Arcapita GCC Real Estate Management I Limited
Arcapita Hong Kong Limited
Arcapita Inc.
Arcapita Industrial Management I Limited
Arcapita Industrial Management II Limited
Arcapita Industrial Management Sarl
Arcapita Investment Management Limited
Arcapita Investment Funding Limited
Arcapita Limited (UK)
Arcapita Pte. Limited (Singapore)
Arcapita Structured Finance Limited
Arcapita Ventures I Holdings Limited
Arcapita Ventures I WCF Limited
ArcIndustrial European Development Holdings Limited
ArcResidential Japan Holdings Limited
ArcResidential Japan WCF Limited
Ard Limited
Aspen Valley Ranch Holdings Limited
Aspen Valley Ranch WCF Limited
Avionics Holdings Limited
Avionics WCF Limited
Bert Funding Company Limited

Blacktop Holdings Limited
Bospower Holdings Limited
Bospower WCF II Limited
BosPower WCF Limited
BT Holdings Limited BT WCF Limited
Cajun Holdings Limited
Castello Holdings Limited
Castello WCF Limited
CEE Residential I Holdings Limited
CEIP Holdings Limited
CEIP WCF Limited
Chicago Condominium Holdings Limited
Chicago Condominium WCF Limited
Commerce - MGI (Malaysia) Ltd.
Commerce MGI SDN. BHD
Compufin Limited
Condo Conversion WCF Limited
DAH Holdings Limited
Distric Cooling Holdings Limited
Drillbit Holdings Limited
Drillbit WCF II Limited
Drillbit WCF Limited
Earth Holdings Limited
Earth WCF Limited
ElectricInvest Holdings Limited
ElectricInvest WCF II Limited
ElectricInvest WCF Limited
Eternal Holdings Limited
FEDI Limited
FlowInvest WCF Limited
Fountains WCF Limited
French Kitchen Holdings Limited
Gas Holdings Limited
Gas WCF Limited
HEDI Investments Limited
India Growth Holdings Limited
Innovations Holdings Limited
Insulation Holdings Limited
Isle Holdings II Limited
Isoftechnology WCF Limited
ISP International Limited
JEDI Limited
JJ Holdings Limited KEDI Limited
La Mesa Holdings Limited Locker Room Holdings II Limited
Locker Room Holdings Limited
Loghomes Holdings Limited

Loghomes II WCF Limited
LogHomes WCF Limited
Logistics Holdings Limited
Logistics WCF Limited
Longwood Holdings Limited
Lusail Heights Holdings Limited
Majestic Global Investments Limited
MC Limited
MEDI Limited
Medifax Holdings Limited
MS Surgery Holdings Limited
NavIndia Holdings Limited
Oman Industrial Holdings Limited
Oman Logistics Fund Holdings Limited
Orlando Residential Holdings Limited
OSP Holdings Limited
OSP WCF Limited
Outlet Center Holdings Limited
Outlet Center WCF Limited
Palatine Holdings Limited
Perennial Holdings II Limited
Perennial Holdings III Limited
Perennial Holdings IV Limited
Perennial Holdings Limited
PointPark Properties EOOD
Pointpark Properties France SAS
Pointpark Properties GmbH
PointPark Properties Pte. Limited
Pointpark Properties S.p.z.o.o.
Pointpark Properties S.r.o.
Pointpark Properties SK S.r.o.
PointPark Properties W.L.L.
PointPark Properties, S.L.
Poland Residential Holdings Limited
Pond Bay Holdings Limited
Premium Coffee Holdings Limited
PVC Holdings Limited
PVC WCF Limited
Rapids Limited
Riffa Holdings Limited
Riffa WCF Limited
Ritzy Property Holdings Limited
Saudi Industrial Holdings Limited
Singapore Industrial Holdings Limited
Singapore Industrial II Holdings Limited
Singapore Industrial II WCF Limited

Singapore Industrial WCF Limited
Small Smiles Holdings Limited
Sonar Holdings Limited
Sortalogic Holdings Limited
StockMore Holdings Limited
StoraFront Holdings Limited
Storapod Holdings Limited
Storapod WCF II Limited
Storapod WCF Limited
TechInvest Holdings Limited
TechInvest WCF Limited
Tender Loving Care Holdings Limited
US Senior Living WCF Limited
VGC WCF Limited
Victory Heights Lifestyle Holdings Limited
Victory Heights WCF Limited
WaterWarf Holdings II Limited
WaterWarf Holdings Limited
Waverly Holdings Limited
Wind Power Holdings Limited
WindTurbine WCF Limited
YAK Holdings Limited

(ii) Debtors' prepetition and postpetition secured bank lenders, advisors and counsel:

Standard Chartered Bank
WestLB AG

(iii) Holders of more than 5% of the Debtors' equity securities:

Jasmine Quadrilateral Investment Corp.

(iv) Current officers and directors, board members of the Debtors and individuals who have served as officers or directors of the Debtors in the past two years:

Dr. Khalid Boodai
Mr. Khalifa Mohammed Al-Kindi
Hajah Hartini Binti Haji Abdulla
Dr. HJ Mohd. Amin Liew Bin Abdullah
Sheikh Mohammed Abdulaziz Aljomaih
Mr. Abdulaziz Hamad Aljomaih
Mr. Ghazi Fahad Alnafisi
Sheikh Khalid Bin Thani Bin Abdullah Al-Thani
Mr. Ibrahim Yusuf Al-Ghanim
Mr. Abdulla Abdullatif Al-Fozan
Mr. Abdulrahman Abdulaziz Al-Muhanna
Mr. Junaidi Masri
H.E. Sheikh Jassim Bin Hamad Bin Jassim Bin Jabr
Mr. Atif Ahmed Abdulmalik

Mr. Aamer Abduljalil Al-Fahim

(v) Professionals to be employed by the Debtors in these chapter 11 cases:

Gibson, Dunn & Crutcher LLP
Linklaters
Rothschild
The Garden City Group, Inc.
Alvarez & Marsal
KPMG UK
Hatim S. Zu'Bi & Partners
Trowers & Hamlins
Mourant Ozannes

(vi) The Debtors' 50 largest unsecured creditors on a consolidated basis as identified in their chapter 11 petitions:

Central Bank of Bahrain
Commerzbank
National Bank of Bahrain
Bahrain Bay Development B.S.C.(c)
District Cooling Capital Limited
Arcsukuk (2011 - 1) Limited
Euroville Sarl (formally Satinland Finance Sarl)
Riyad Bank
VR Global Partners LP
Midtown Acquisitions LP
Thornbeam Limited
Perbadanan Tabung Amanah Islam Brunei
Fortis Bank NA/NV
Overseas Fund Co. S.P.C.
Devonshire Limited
Standard Bank plc
BBB Holding Company II Limited
Goldman Sachs Lending Partners
Barclays Bank plc
Bank of America N.A.
CIMB Bank Berhad
Credit Suisse, London
Deutsche Bank Luxembourg S.A.
European Islamic Investment Bank Plc
Malayan Banking Berhad, London Branch
Mashreqbank psc
Royal Bank of Scotland N.V.
The Royal Bank of Scotland plc
The Arab Investment Company S.A.A.
ING Bank N.V.
HSH Nordbank AG, Luxembourg Branch

Yayasan Sultan Haji Hassanal Bolkiah
Bandtree SDN BHD
Saudi Industrial Capital I Limited
Fuad Al Ghanim & Sons General Trading and Contracting
BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse
Aktiengesellschaft
BBK B.S.C.
Boubyan Bank K.S.C.
Doha Bank
Natixis
Perbadanan Tabung Amanah Islam Brunei
Tadhamon Capital B.S.C.
Kuwait Finance House KSC
NavIndia Holding Company Limited
Commerzbank (beneficiary PVC (Lux) Lux Holding Company S.a. r.l.)
Falcon Gas Storage Company, Inc.
The Governor and Company of the Bank of Ireland
Bank of Taiwan, Singapore Branch
G.P. Zachariades Overseas Ltd.
Tabung Amanah Pekerja

(vii) The Debtors' ordinary course professionals:

Ernst & Young
Keypoint Consulting
Haya Rashed Al Khalifa Law Firm
Farid Hassani

(viii) The Debtors' landlords:

Noon Investment Company (storage)

(ix) The Debtors' utility providers:

Ministry of Electricity
Bahrain Telecom. Company
Zain Bahrain B.S.C.(c)
Menatelecom
Bahrain Bay Utilities Company BSC(c)
2Connect

(x) The Debtors' insurers and insurance brokers:

Solidarity General
Marsh Ltd.

(xi) The Debtors' list of bank accounts:

JP Morgan Chase, New York
Arab Banking Corporation
Bank of Bahrain & Kuwait

National Bank of Bahrain
Bahrain Islamic Bank
DBS Bank Ltd
Standard Chartered Bank
Standard Bank PLN
Standard Bank SGD

(xii) The Debtors' 50 largest customers:
[REDACTED]

(xiii) The Debtors' 50 largest vendors:
Keypoint Consulting WLL
Nass Contracting Co. W.L.L / Murray & Ro
ADP Total Source
Bahrain Bay Development B.S.C. (c)
King & Spalding
American Express
Advent Resource Consultancy
Ernst & Young
Paget Brown & Co
Bahrain Bay Utilities Company BSC(c)
Al-Gosaibi Travel Agency
KPMG UK
Social Insurance Organization (GOSI)
Yousef A Alammar
Korn / Ferry International
National Bank of Bahrain BSC
Gibson, Dunn & Crutcher
Bahrain Telecom Company
Cleary Gottlieb Steen & Hamilton LLP
Navigant Consulting Inc
CDL Properties Ltd.
Linklaters
Walter Knoll AG & Co. KG
Illinois Department of Revenue
PointPark Properties s.r.o.
Path Solutions K.S.C.C
Sima Samiealhak Q Malak
Dawnay, Day & Co. Limited
Takaful International Co.
ASM Formule 3 / Art Grand Prix
GlassRanter Advisory & Capital Group, LL
CrediMax
Rothschild
The Blackstone Group International Limit
Central Bank of Bahrain

Marsh
MAF Dalkia Bahrain
Treasurer, State of Maine
2Connect WLL
Oliver Wyman Limited
Siteco
Riyadh House Est
Ministry of Electricity
Maples and Calder
KMS Team New York Inc.
Peter Paul Pardi
Pricewaterhouse Coopers LLP
CMS Cameron McKenna LLP
St. Christophers School
Al-Moayyed Computers

(xiii) Parties relating to significant litigation to Debtors:

Riffa Views B.S.C.(c)
GP Zachariades Overseas Ltd.
Tide Natural Gas Storage I, LP
Tide Natural Gas Storage II, LP
Falcon Gas Storage Company, Inc.
Profine GmbH
Commerzbank

(xiv) Parties to executory contracts:

Shutdown Maintenance Service
Quick Zebra Services
MAF Dalkia Bahrain
Path Solutions
Microsoft Bahrain
Zutecgulf W.L.L., Bahrain
EastNets
Xerox
Prevention Software
Honeywell
Sonar Security

SCHEDULE 2

KPMG UK RELATIONSHIPS

(i) Debtor entities:

Arcapita Bank B.S.C (c)
Arcapita Investment Holdings Limited
RailInvest Holdings Limited
AMPAD Holdings Limited
Arcapita (HK) Limited
Arcapita Hong Kong Limited
Arcapita Inc.
Arcapita Industrial Management I Limited
Arcapita Industrial Management Sarl
Arcapita Investment Management Limited
Arcapita Investment Funding Limited
Arcapita Limited (UK)
Arcapita Pte. Limited (Singapore)
Arcapita Structured Finance Limited
Arcapita Ventures I Holdings Limited
Aspen Valley Ranch Holdings Limited
Aspen Valley Ranch WCF Limited
Castello Holdings Limited
Commerce - MGI (Malaysia) Ltd.
Commerce MGI SDN. BHD
JJ Holdings Limited
Logistics Holdings Limited
Orlando Residential Holdings Limited
Outlet Center Holdings Limited
Perennial Holdings II Limited
Perennial Holdings III Limited
Perennial Holdings IV Limited
Perennial Holdings Limited
PointPark Properties EOOD
Pointpark Properties France SAS
Pointpark Properties GmbH
PointPark Properties Pte. Limited
Pointpark Properties S.p.z.o.o.
Pointpark Properties S.r.o.
Pointpark Properties SK S.r.o.
PointPark Properties W.L.L.
PointPark Properties, S.L.
Pond Bay Holdings Limited
Premium Coffee Holdings Limited

Tender Loving Care Holdings Limited
US Senior Living WCF Limited

(ii) **Debtors' prepetition and postpetition secured bank lenders, advisors and counsel:**

Standard Charter Bank
WestLB AG

(iii) **Holders of more than 5% of the Debtors' equity securities:**

Jasmine Quadrilateral Investment Corp.

(iv) **Current officers and directors, board members of the Debtors and individuals who have served as officers or directors of the Debtors in the past two years:**

N/A

(v) **Professionals to be employed by the Debtors in these chapter 11 cases:**

Gibson, Dunn & Crutcher LLP
Linklaters
Rothschild
The Garden City Group, Inc.
Alvarez & Marsal
Trowers & Hamlins
Mourant Ozannes

(vi) **The Debtors' 50 largest unsecured creditors on a consolidated basis as identified in their chapter 11 petitions:**

Central Bank of Bahrain
Commerzbank
National Bank of Bahrain
Bahrain Bay Development B.S.C.(c)
Euroville Sarl (formally Satinland Finance Sarl)
Riyad Bank
Perbadanan Tabung Amanah Islam Brunei
Fortis Bank NA/NV
Devonshire Limited
Standard Bank plc
Goldman Sachs Lending Partners
Barclays Bank plc
Bank of America N.A.
CIMB Bank Berhad

Credit Suisse, London
Deutsche Bank Luxembourg S.A.
European Islamic Investment Bank Plc
Malayan Banking Berhad, London Branch
Mashreqbank psc
Royal Bank of Scotland N.V.
The Royal Bank of Scotland plc
The Arab Investment Company S.A.A.
ING Bank N.V.
HSH Nordbank AG, Luxembourg Branch
Yayasan Sultan Haji Hassanah Bolkuah
BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse Aktiengesellschaft
BBK B.S.C.
Boubyan Bank K.S.C.
Doha Bank
Natixis
Perbadanan Tabung Amanah Islam Brunei
Tadhamon Capital B.S.C.
Kuwait Finance House KSC
Commerzbank (beneficiary PVC (Lux) Lux Holding Company S.a. r.l.)
Falcon Gas Storage Company, Inc.
The Governor and Company of the Bank of Ireland
Bank of Taiwan, Singapore Branch
G.P. Zachariades Overseas Ltd.
Tabung Amanah Pekerja

(vii) The Debtors' ordinary course professionals:

Ernst & Young
Keypoint Consulting

(viii) The Debtors' landlords:

Noon Investment Company (storage)

(ix) The Debtors' utility providers:

Ministry of Electricity
Bahrain Telecom Company
Zain Bahrain B.S.C.(c)
Bahrain Bay Utilities Company BSC(c)

(x) **The Debtors' insurers and insurance brokers:**

Solidarity General
Marsh Ltd.

(xi) **The Debtors' list of bank accounts:**

JP Morgan Chase, New York
Arab Banking Corporation
Bank of Bahrain & Kuwait
National Bank of Bahrain
Bahrain Islamic Bank
DBS Bank Ltd
Standard Chartered Bank
Standard Bank PLN
Standard Bank SGD

(xii) **The Debtors' 50 largest customers:**

[REDACTED]

(xiii) **The Debtors' 50 largest vendors:**

Keypoint Consulting WLL
Nass Contracting Co. W.L.L / Murray & Ro
ADP Total Source
Bahrain Bay Development B.S.C. (c)
King & Spalding
American Express
Ernst & Young
Paget Brown & Co
Bahrain Bay Utilities Company BSC(c)
Al-Gosaibi Travel Agency
Social Insurance Organization (GOSI)
Korn / Ferry International
National Bank of Bahrain BSC
Gibson, Dunn & Crutcher
Bahrain Telecom. Company
Cleary Gottlieb Steen & Hamilton LLP
Navigant Consulting Inc
CDL Properties Ltd.

Linklaters
Illinois Department of Revenue
PointPark Properties s.r.o.
Dawnay, Day & Co. Limited
Takaful International Co.
CrediMax
Rothschild
The Blackstone Group International Limit
Central Bank of Bahrain
Marsh
MAF Dalkia Bahrain
Treasurer, State of Maine
Oliver Wyman Limited
Siteco
Ministry of Electricity
Maples and Calder
Pricewaterhouse Coopers LLP
CMS Cameron McKenna LLP
St. Christophers School
Al-Moayyed Computers

(xiii) Parties relating to significant litigation to Debtors:

Riffa Views B.S.C.(c)
Falcon Gas Storage Company, Inc.
Profine GmbH
GP Zachariades Overseas Ltd.
Commerzbank

(xiv) Parties to executory contracts:

Shutdown Maintenance Service
MAF Dalkia Bahrain
Microsoft Bahrain
EastNets
Xerox
Honeywell