Hearing Date and Time: [To Be Determined]
Objection Deadline: [To Be Determined]

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

MOTION FOR AN ORDER AUTHORIZING THE DEBTORS TO TAKE ACTIONS AND INCUR OBLIGATIONS IN CONNECTION WITH SALE BY NON-DEBTOR SUBSIDIARIES OF EUROLOG ASSETS AND TO EXEMPT SALE FROM REQUIREMENTS OF COOPERATION SETTLEMENT TERM SHEET

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Arcapita Bank B.S.C.(c) ("***Arcapita Bank***"), Arcapita Investments Holdings Limited ("***AIHL***"), Arcapita LT Holdings Limited ("***ALTHL***"), AEID II Holdings Limited ("***AEID II***"), and certain of their affiliated debtors in possession (collectively, the "***Debtors***"), submit this motion (the "***Motion***") for entry of an order substantially in the form attached hereto as ***Exhibit A*** pursuant to sections 105(a) and 363 of title 11 of the United States Code (the "***Bankruptcy Code***") and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") authorizing the Debtors to take actions, incur obligations, and provide the consents necessary or appropriate to authorize, approve, and facilitate the sale (the "***Sale***") by certain indirect non-Debtor subsidiaries (the "***EuroLog Affiliates***") of their interests in a group of companies that own and operate a variety of warehousing assets located throughout Europe (the "***EuroLog Assets***") to the purchaser (the "***Purchaser***")[1] pursuant to that certain Share Purchase Agreement dated as of September 4, 2013 (together with all exhibits, schedules, and supplements, the "***SPA***").[2]

THE ESSENCE OF THE PROPOSED TRANSACTION

1. The Debtors have agreed, subject to Court approval,[3] to sell the EuroLog Assets to the Purchaser pursuant to the SPA. The EuroLog Assets have been marketed extensively,

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[1] The Purchaser is an affiliate of a leading global private investment firm with in excess of $50 billion of capital under management. The Purchaser has required that its name be redacted from this Motion as it would not be customary for it to announce a transaction prior to the closing of such transaction. The Committee and the JPLs have been made aware of the identity of the Purchaser.

[2] An executed copy of the SPA is attached hereto as ***Exhibit C***. Certain sections of the SPA have been redacted to maintain the confidentiality of certain non-public information about the EuroLog Assets, which, if made public, could have a detrimental impact on the value of the assets. The full, unredacted version of the SPA has been shared with the Committee and the JPLs.

[3] There are certain other conditions to the sale, as set forth in Section 5 of the SPA.

including pursuant to an initial public offering that was launched with the approval of this Court on October 9, 2012 but ultimately withdrawn.

2. The proposed Sale has been evaluated by the Debtors' senior management committee, which has determined that the Sale is in the best interests of the Debtors' estates. Moreover, the Debtors have conferred with the Official Committee of Unsecured Creditors (the "***Committee***") and the Joint Provisional Liquidators of Debtor AIHL (the "***JPLs***"), and each of these constituencies expressly supports the Sale. In fact, the Committee has been extensively involved in the negotiations regarding the Sale. As part of that process, the Committee's professionals reviewed and commented on several drafts of the SPA. Ultimately, the Committee approved of the Debtors' execution of the documents before they were executed.

3. Because the Sale may not close prior to the effective date (the "***Effective Date***") of the Debtors' chapter 11 plan (the "***Plan***"),[4] it could be argued that the Sale would be subject to the Plan provisions governing the disposition of the Debtors' investments (as set forth in the Cooperation Settlement Term Sheet, attached as Annex 8 to the *Notice of Filing of Plan Supplement Documents* [Docket No. 1195], the "***Disposition Procedures***").[5] If required to be implemented with respect to the EuroLog Assets, the Disposition Procedures would duplicate the Debtors' prior marketing efforts, impose additional delay and administrative burdens, and jeopardize the Sale.

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[4] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan [Docket No. 1265].

[5] The Disposition Procedures require the Debtors and the Committee to negotiate a disposition plan and minimum sale price for many of the Debtors' investments (including the EuroLog Assets) prior to the Effective Date. Additionally, a disposition committee is to be established by the shareholders of each of the Debtors' investment holding companies with respect to these investments. The disposition committee for "Major Investments" must, among other things, select an investment bank to evaluate and market the investment.

4. The primary purpose of the Disposition Procedures is to ensure that the Debtors' investments are marketed through a thorough process that maximizes the sale price and recovery to the Debtors' estates. In this case, through the failed IPO and other marketing efforts, the EuroLog Assets have been marketed through a process more extensive than the process that would be required by the Disposition Procedures. The Debtors and the Committee believe that consummating the Sale, rather than restarting the marketing process upon the occurrence of the Effective Date, would more effectively maximize the value of the EuroLog Assets and recovery to the Debtors' estates. Therefore, in order to avoid disrupting the Sale, the Debtors are seeking confirmation that the Disposition Procedures do not apply to the Sale and that the Sale may consummated based on the marketing efforts that have already taken place, including pursuant to a Court order.

BACKGROUND

A. The Debtors' Indirect Ownership Interest in the EuroLog Assets

5. The EuroLog Assets consist of (i) 46 warehouse properties with a gross leasable area of approximately 15 million square feet that are located in seven countries across Europe, (ii) six undeveloped real estate parcels located in four countries that are suitable for development of approximately 6.6 million square feet of additional leasable area, and (iii) a group of real estate asset management companies with eight offices.

6. The ownership interests in the EuroLog Assets are divided among many intermediate holding companies. Through these intermediate holding companies, the Debtors collectively hold substantial beneficial interests in the EuroLog Assets. The Debtors are also entitled to a return of funds loaned to various EuroLog Affiliates and to certain management and other fees that are owed by various EuroLog Affiliates. Consequently, the Debtors will receive approximately 96% of the net proceeds of the Sale.

B. The Marketing Process

7. On July 26, 2012, the Debtors filed a motion seeking authority to launch an IPO of the EuroLog Assets [Docket No. 350]. On September 10, 2012, the Court entered an order authorizing the EuroLog IPO [Docket No. 465].

8. On October 9, 2012, the EuroLog Affiliates launched the EuroLog IPO when they filed an "Intention to Float" with the London Stock Exchange, which commenced the marketing process for the EuroLog IPO. Ultimately, however, market feedback regarding the anticipated price for the EuroLog IPO came in below expectations and the Debtors elected not to complete the EuroLog IPO.

9. Subsequent to the termination of the EuroLog IPO, the Debtors were contacted by several parties that expressed an interest in purchasing the EuroLog Assets. These offers, including multiple prior offers by the Purchaser, were rejected by the Debtors. However, the Purchaser ultimately submitted a final and best offer to purchase the EuroLog Assets for €105 million, under terms that were favorable to the Debtors. The Purchaser has also agreed to pay up to €6.5 million of the outstanding receivables owed to Arcapita Bank by certain EuroLog Affiliates.

JURISDICTION AND VENUE

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

RELIEF REQUESTED

11. The Debtors request the Court to enter an order substantially in the form attached hereto as Exhibit A, pursuant to sections 105 and 363 of the Bankruptcy Code and Bankruptcy Rules 2002 and 6004, authorizing the Debtors to take such actions, to cause their affiliates to

take such actions, to incur such obligations, and to provide such consents as are necessary or appropriate to authorize, approve, and facilitate the Sale by the EuroLog Affiliates of all of their interests in the EuroLog Assets. Furthermore, the Debtors seek confirmation that on the Effective Date, New Arcapita Holdco 2 will assume all of the Debtors' obligations under the SPA and any related agreements, consistent with the terms therein. The Debtors also seek authorization for New Arcapita Holdco 2[6] to assume, as of the Effective Date and subject to ratification by New Arcapita Holdco 2, all of the Guaranteed Obligations (as defined in the SPA), including those of Arcapita Bank that existed prior to the Effective Date. Additionally, the Debtors request that the Court approve the Sale based on the process that has already taken place and, to the extent they are applicable to the Sale, exempt the EuroLog Assets from further compliance with the Disposition Procedures following the Effective Date, subject to the occurrence of the Sale's closing.

SUMMARY OF ESSENTIAL SALE TERMS

12. The essential terms of the Sale are summarized as follows:

SALE TRANSACTION:	The EuroLog Affiliates will transfer their direct or indirect interests in the EuroLog Assets to P3 Limited. The shares in P3 Limited will then be transferred to the Purchaser.
SHARE PURCHASE PRICE:	The purchase price will be €105 million. The Purchaser will also pay outstanding receivables owed to Arcapita Bank by certain EuroLog Affiliates in the maximum capped amount of €6.5 million.

[6] "New Arcapita Holdco 2" as contemplated by the Plan will be "RA Holdco 2 LLC."

CLOSING:	The parties estimate that the closing may occur as early as October 2, 2013, subject to the satisfaction (or, where applicable, waiver) of the closing conditions precedent set forth in the SPA.
CLOSING CONDITIONS:	Closing conditions include obtaining certain regulatory approvals set forth in the SPA and delivering consent letters regarding certain of the EuroLog Affiliates' credit facilities. Closing is also conditioned upon, unless waived by the Purchaser in writing, the occurrence of the Effective Date and the ratification of New Arcapita Holdco 2's execution of the SPA and incurrence of the Guaranteed Obligations (as defined in the SPA) by the board of managers of New Arcapita Holdco 2 (or a substitute guarantor acceptable to the Purchaser) within 3 business days after the Effective Date.
LIMITED GUARANTEE:	Until the Effective Date, Arcapita Bank and, from the Effective Date, subject to ratification by its board, New Arcapita Holdco 2 will provide a limited Guarantee on the terms set forth in Section 26 of the SPA.
ADDITIONAL TERMS:	Various agreements between the Debtors and the EuroLog Affiliates will be wound up as part of the pre-Sale restructuring.

BASIS FOR RELIEF REQUESTED

13. As the Court is aware, the ordinary course of the Debtors' business is to acquire businesses, syndicate interests to third-party investors, maintain a minority ownership interest and then manage and operate those businesses until an eventual exit for the benefit of both the Debtors and the investors. The EuroLog Affiliates are non-Debtor entities, and the EuroLog Assets are not property of the Debtors' estates.

14. Nevertheless, out of an abundance of caution, because the proposed Sale will ultimately affect the net recovery for creditors, because of the complexity of the Debtors' organization, because the Debtors will provide certain warranties, indemnifications, and guarantees pursuant to the SPA, and because the SPA requires the Debtors to seek Court approval of the Sale, the Debtors request that the Court enter an order, substantially in the form

attached as Exhibit A hereto, authorizing the Debtors, *inter alia*, to take such actions, to cause their affiliates to take such actions, to incur such obligations, and to provide such consents as are necessary or appropriate to authorize, approve, and facilitate the Sale and excusing compliance with the Plan's Disposition Procedures.

15. Section 363 of the Bankruptcy Code states that "the trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, ***property of the estate***." 11 U.S.C. § 363(b)(1) (emphasis added). Indeed, "property of the estate" generally does not include a non-debtor subsidiary's assets. *In re Stein & Day, Inc*., 113 B.R. 157, 161 (Bankr. S.D.N.Y. 1990) (citing *Feldman v. Trustees of Beck Indus., Inc. (In re Beck Indus.)*, 479 F.2d 410, 416 (2d Cir. 1973), *cert. denied*, 414 U.S. 858 (1973)); *see also Equity Broadcasting Corp. v. Shubert (In re Winstar Commc'ns., Inc.)*, 284 B.R. 40, 51 (Bankr. D. Del. 2002) (the ownership of all the outstanding stock of a non-debtor subsidiary by the debtor does not confer jurisdiction on the bankruptcy court to decide disputes involving the non-debtor subsidiary's assets). Although the "bankruptcy statutes do not give a bankruptcy court jurisdiction over property belonging to an entity owned in whole or in part by the bankrupt without first finding that the property also constitutes a part of the bankrupt's property," given the complexity of the Debtors' business structure and the fact that Arcapita Bank will provide various guarantees, warranties, etc. in connection with the Sale (as set forth in the SPA), the Debtors believe it is better to bring the matter before the Court and all parties in interest and allow any potential issues to be raised prior to the Sale. *Center Ltd. P'ship v. Smith (In re Holywell Corp.)*, 118 B.R. 876, 879 (S.D. Fla. 1990) (citing *Matter of Pentell*, 777 F.2d 1281 (7th Cir. 1985)).

16. To approve the use, sale, or lease of property outside of the ordinary course of business pursuant to section 363(b) of the Bankruptcy Code, the Court need only find "a good

business reason" supports the sale or use. *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983); *Licensing by Paolo, Inc. v. Sinatra (In re Gucci)*, 126 F.3d 380, 387 (2d Cir. 1997) ("A sale of a substantial part of a [c]hapter 11 estate other than in the ordinary course of business may be conducted if a good business reason exists to support it."); *Comm. of Asbestos-Related Litigants* v. *Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) ("Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct.").

17. Generally, courts have applied four factors in determining whether a sale of a debtor's assets should be approved: (a) whether a sound business reason exists for the proposed transaction; (b) whether fair and reasonable consideration is provided; (c) whether the transaction has been proposed and negotiated in good faith; and (d) whether adequate and reasonable notice is provided. *See*, *e.g.*, *In re Delaware & Hudson Ry. Co.*, 124 B.R. 169, 176 (D. Del. 1991); *In re Lionel Corp.*, 722 F.2d at 1071 (setting forth the "sound business purpose" test); *In re Abbotts Dairies of Pa. Inc.*, 788 F.2d 143, 145-47 (3d Cir. 1986) (implicitly adopting the articulated business justification test and adding the "good faith" requirement).

A. <u>Sound Business Reasons Exists to Consummate the Sale</u>

18. The Debtors' decision to consummate the Sale is based upon their sound business judgment. Both prepetition and postpetition, one of the Debtors' primary goals has been to maximize the return on their investments such that their estates may benefit, and the net proceeds from the Sale represent an attractive proposition for the Debtors. Each investment acquired by the Debtors is closely monitored by "deal teams" intimately familiar with the business and the market in which it operates. Based on its expertise and sound business judgment, the deal team responsible for monitoring the Debtors' indirect interest in the EuroLog Assets has determined

that the proposed Sale at this time is supported by sound business reasons. *See Declaration of Martin Tan in Support of the Debtors' Motion for an Order Authorizing the Debtors to Take Actions and Incur Obligations in Connection With Sale by Non-Debtor Subsidiaries of EuroLog Assets and to Exempt Sale From Requirements of Cooperation Settlement Term Sheet* (the "***Tan Declaration***"), attached hereto as ***Exhibit B***, at 11. Moreover, the Debtors believe that providing the limited guarantees, warranties, and indemnifications required by the Purchaser is supported by sound business judgment. Tan Declaration at 12. It is standard market practice to provide such guarantees, warranties, and indemnifications, and the Purchaser would not have agreed to the Sale without them. *Id.*

19. Additionally, prior to executing the SPA, the Debtors' professionals conferred extensively with the Committee's professionals, who were intimately involved in both the IPO and Sale processes and directly negotiated several points with the Purchaser, and with the JPLs. The Committee and JPLs also support the Sale.

B. <u>The Purchase Price is Fair and Reasonable</u>

20. Based on their knowledge of the EuroLog Assets, the deal team and the Debtors believe that the purchase price is fair and reasonable. As described above, the EuroLog Assets were extensively marketed, and the purchase price represents the highest and best price obtained as a result of that robust process. Additionally, the Debtors have been in constant communication with professionals for the Committee and the JPLs and have confirmed that the Committee and JPLs agree the purchase price is fair and reasonable and support the Sale.

C. <u>The Proposed Sale is the Product of Good Faith</u>

21. The parties have acted in good faith in negotiating the Sale, and there is no evidence of fraud or collusion in the Sale. To the contrary, as discussed throughout this Motion, the Sale is the result of an extensive international marketing campaign. Moreover, in connection

with the EuroLog IPO and throughout the Sale process, all parties have been represented by sophisticated advisors. The Purchaser is not an "insider" of the Debtors, as that term is defined in section 101(31) of the Bankruptcy Code, and all negotiations have been conducted on an arm's-length, good faith basis. *See* Tan Declaration at 13-14.

D. Notice of the Sale is Adequate and Reasonable Under the Circumstances

22. The EuroLog Assets were extensively marketed in connection with the withdrawn EuroLog IPO, which the Debtors submit constitutes adequate notice under the circumstances, as evidenced, in part, by the offers for the EuroLog Assets received by the Debtors following withdrawal of the IPO. Additionally, the Debtors are providing notice, through this Motion, to all other parties in interest. The essential terms of the Sale are summarized above, and a copy of the SPA is attached hereto as Exhibit C.

E. The Parties Should be Excused From the Application of Plan Disposition Procedures

23. As described above, the Plan's Disposition Procedures require the Debtors and the Committee to negotiate a disposition plan and minimum sale price for many of the Debtors' investments prior to the Effective Date. Additionally, the Disposition Procedures require the formation of a disposition committee, which in many cases must select an investment bank to evaluate and market each investment.

24. In this case, the EuroLog Assets have already been marketed through an extensive process undertaken in consultation with the Committee and definitive documentation with respect to the Sale has already been executed. The Sale, however, may not close until after the Plan's Effective Date. The Debtors and the Committee believe that the ultimate purpose of the Disposition Procedures—to ensure a thorough marketing and sale process and the maximization of value—is better accomplished with respect to the EuroLog Assets by consummating the Sale

and that the Disposition Procedures should not apply to the assets being sold if the Sale is consummated. Therefore, the Debtors submit that it is appropriate for the Court to approve the Sale based on the process that has taken place to date and to confirm that, subject to the occurrence of the Sale's closing, the EuroLog Assets will not be subject to the additional requirements of the Disposition Procedures.

F. Relief Under Bankruptcy Rule 6004(h) is Appropriate

25. Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Debtors request that any order approving the Sale be deemed effective immediately by providing that the 14-day stay under said rule is waived.

26. The purpose of Bankruptcy Rule 6004(h) is to provide sufficient time for an objecting party to appeal before an order can be implemented. *See* Advisory Committee Notes to Fed. R. Bankr. P. 6004(h). Although Bankruptcy Rule 6004(h) and the Advisory Committee Notes are silent as to when a court should "order otherwise" and eliminate or reduce the 14-day stay period, commentators suggest that the 14-day stay period should be eliminated to allow a sale or other transaction to close immediately "where there has been no objection to the procedure." 10 Collier on Bankruptcy ¶ 6004.11 (Alan N. Resnick & Henry J. Sommer, 16th ed.). Given that the Debtors will provide notice of the Motion in a manner that is reasonable under the circumstances, and because the Sale may close before the expiration of the 14-day period, the Debtors submit that good cause exists for the Court to waive the 14-day stay period under Bankruptcy Rule 6004(h).

NOTICE

27. 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) the Committee, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis F. Dunne, Esq. and Evan R. Fleck, Esq.); counsel for the Purchaser, Freshfields Bruckhaus Deringer US LLP, 601 Lexington Avenue, New York, New York 10022 (Attn: Abbey Walsh, Esq.); and (iv) 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.

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
September 6, 2013

Respectfully submitted,

/s/ Michael A. Rosenthal
Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
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ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

PROPOSED ORDER

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

ORDER PURSUANT TO SECTIONS 105 AND 363 OF THE BANKRUPTCY CODE AUTHORIZING DEBTORS TO TAKE ACTIONS AND INCUR OBLIGATIONS IN CONNECTION WITH SALE BY NON-DEBTOR SUBSIDIARIES OF EUROLOG ASSETS AND TO EXEMPT SALE FROM REQUIREMENTS OF COOPERATION SETTLEMENT TERM SHEET

Upon the motion (the "***Motion***")[1] of the debtors in the above-captioned case (the "***Debtors***") for an order pursuant to sections 105 and 363 of title 11 of the United States Code (the "***Bankruptcy Code***") and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"), authorizing the Debtors to take actions, incur obligations, and provide the consents necessary or appropriate to authorize, approve, and facilitate the sale (the "***Sale***") by certain indirect non-Debtor subsidiaries (the "***EuroLog Affiliates***") of their interests in a group of companies that own and operate a variety of warehousing assets located throughout Europe (the "***EuroLog Assets***") to the Purchaser, it appearing that (a) the Court has jurisdiction over the subject matter of the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (c) the

[1] All capitalized terms used and not otherwise defined in this Order shall have the meanings ascribed to them in the Motion.

legal and factual bases set forth in the Motion, in the Declaration of Martin Tan filed in support of the Motion, and on the record at the hearing (if any) establish just cause for the relief granted herein; (d) the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors; and (e) notice of the Motion was sufficient, and no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND, DETERMINED AND ORDERED THAT:

1. The Motion is hereby granted to the extent set forth herein.

2. Any objections, responses, or requests for continuance concerning the Motion are overruled and denied to the extent that they have not been withdrawn, waived, or settled.

3. To the extent that any of the findings of fact in this Order constitute conclusions of law, they are adopted as such. To the extent that any of the conclusions of law in this Order constitute findings of fact, they are adopted as such.

4. The Debtors have demonstrated a sound basis for their decision to agree to the Sale and to provide the indemnifications, warranties, and guarantees set forth in the SPA and any other related agreements, and such actions are an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates, and creditors.

5. The Debtors' execution of, and to the extent necessary, authorization for their subsidiaries and affiliates to execute, the SPA and any other related agreements is hereby approved and authorized pursuant to section 363 of the Bankruptcy Code.

6. Upon the occurrence of the Plan's Effective Date, RA Holdco 2 LLC shall assume any liability of the Debtors under the SPA and any other related agreements, consistent with the terms therein.

7. RA Holdco 2 LLC is authorized to assume, as of the Effective Date and subject to ratification by RA Holdco 2 LLC, all of the Guaranteed Obligations (as defined in the SPA), including those of Arcapita Bank that existed prior to the Effective Date.

8. Pursuant to section 363 of the Bankruptcy Code, the Debtors are authorized to execute such documents, to provide such consents, and to take any and all other actions as are necessary or appropriate to authorize, cause, direct, approve, or otherwise facilitate the Sale on the terms and conditions set forth in the SPA attached to the Motion or as modified in accordance with its respective terms; *provided*, *however*, that any material changes to the terms and conditions set forth in the SPA attached to the Motion may not be made without the Committee's consent.

9. Subject to consummation of the Sale, the EuroLog Assets shall be excluded from the "Investments" identified on Exhibit A to the Cooperation Settlement Term Sheet,[2] and the Sale shall not be governed by the Plan's Disposition Procedures.

10. Notwithstanding any other provision of the Motion or this Order, the obligations of the parties (including, for the avoidance of doubt, RA Holdco 2 LLC) with respect to the Sale shall be governed solely by the terms of the SPA, and such other documents, if any, as may be executed in connection therewith, and the parties shall have no obligation to proceed with closing the Sale until all conditions precedent to its obligations under such documents, including ratification by the post-Effective Date board of RA Holdco 2 LLC, have been met, satisfied, or waived.

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[2] The "Investments" related to the EuroLog Assets are identified on Exhibit A to the Cooperation Settlement Term Sheet as AEID I, AEID II, and AEIY I.

11. The Purchaser is not an "insider" of the Debtors or the EuroLog Affiliates as such term is defined in the Bankruptcy Code, and the Sale is a good-faith, arm's-length transaction between the parties.

12. The relief granted herein shall be binding upon the Debtors' successors and assigns, including any chapter 11 trustee appointed in these chapter 11 cases and any chapter 7 trustee appointed in the event of a subsequent conversion of these chapter 11 cases to cases under chapter 7.

13. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon its entry, and its provisions shall be self-executing.

Dated: September __, 2013
New York, New York

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

TAN DECLARATION

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DECLARATION OF MARTIN TAN IN SUPPORT OF THE DEBTORS' MOTION FOR AN ORDER AUTHORIZING THE DEBTORS TO TAKE ACTIONS AND INCUR OBLIGATIONS IN CONNECTION WITH SALE BY NON-DEBTOR SUBSIDIARIES OF EUROLOG ASSETS AND TO EXEMPT SALE FROM REQUIREMENTS OF COOPERATION SETTLEMENT TERM SHEET

I, Martin Tan, hereby declare as follows:

1. I am the Chief Investment Officer in Arcapita Bank B.S.C.(c) ("***Arcapita Bank***"). I submit this declaration (the "***Declaration***") in support of the *Motion for an Order Authorizing the Debtors to Take Actions and Incur Obligations in Connection With Sale by Non-Debtor Subsidiaries of EuroLog Assets and to Exempt Sale From Requirements of Cooperation Settlement Term Sheet* (the "***Motion***").[1]

2. I have been directly involved in the management of the Debtors' investment of the EuroLog Assets since 2007. I was also involved in the marketing process in connection with

[1] All capitalized terms used and not otherwise defined in this Declaration have the meanings ascribed to them in the Motion.

the EuroLog IPO and have been directly involved in all negotiations with the Purchaser in connection with the proposed sale transaction (the "***Sale***").

3. As the Chief Investment Officer I am authorized to make this Declaration on behalf of the Debtors in support of the Motion.

4. Except as otherwise indicated herein, all facts set forth in this Declaration are based upon my personal knowledge, information learned from my review of relevant documents, and information supplied to me by employees who are under my supervision. If called upon to testify, I could and would testify competently to the facts set forth herein.

A. The General Business of Arcapita Bank and its Related Companies

5. The primary activity of Arcapita Bank, through its Debtor and non-Debtor subsidiaries (collectively, the "***Arcapita Group***") is the purchase, management, and sale of investment opportunities for its own account and the account of third parties. The underlying investments made by the Arcapita Group are generally medium to long-term projects that have limited value in the short term and often require significant on-going capital funding to complete in order to realize the value of the investment. The Arcapita Group also derives revenue from managing assets under investment.

6. During my tenure with the Arcapita Group, I have assisted the Debtors and their affiliates to carry out their business of acquiring diversified businesses, syndicating a portion in those businesses to third-party investors, maintaining an ownership interest in those businesses and then managing, supporting, and operating those businesses until an eventual exit for the benefit of both the Arcapita Group and its investors. Both prepetition and postpetition, one of the Debtors' primary goals has been to maximize the return on our investors' investments.

B. The Debtors' Indirect Ownership Interest in the EuroLog Assets

7. The EuroLog Assets consist of (i) 46 warehouse properties with a gross leasable area of approximately 15 million square feet that are located in seven countries across Europe, (ii) six undeveloped real estate parcels located in four countries that are suitable for development of approximately 6.6 million square feet of additional leasable area, and (iii) a group of real estate asset management companies with eight offices.

8. The ownership interests in the EuroLog Assets are divided among many intermediate holding companies. Through the intermediate holding companies, the Debtors collectively hold substantial beneficial interests in the EuroLog Assets. The Debtors are also entitled to a return of funds loaned to various EuroLog Affiliates and to certain management and other fees that are owed by various EuroLog Affiliates. Consequently, the Debtors will receive approximately 96% of the net proceeds of the Sale.

C. The Sale Process

9. On July 26, 2012, the Debtors filed a motion seeking authority to launch an IPO of the EuroLog Assets, which was approved by the Court. On October 9, 2012, the EuroLog Affiliates launched the EuroLog IPO when they filed an "Intention to Float" with the London Stock Exchange, which commenced the marketing process for the EuroLog IPO. Ultimately, however, market feedback regarding the anticipated price for the EuroLog IPO came in below expectations, and the Debtors elected not to complete the EuroLog IPO.

10. Subsequent to the termination of the EuroLog IPO, the Debtors were contacted by several parties that expressed an interest in purchasing the EuroLog Assets. These offers, including multiple prior offers by the Purchaser, were rejected by the Debtors. However, the Purchaser ultimately submitted a final and best offer to purchase the EuroLog Assets for €105 million, under terms that were favorable to the Debtors. The Purchaser has also agreed to pay up

to €6.5 million of the outstanding receivables owed to Arcapita Bank by certain EuroLog Affiliates.

11. The Sale is the product of rigorous arm's-length negotiations, and I believe that it has resulted in a fair and reasonable purchase price for the EuroLog Assets and is an attractive proposition for the Debtors, well within the range of the Debtors' internal value estimates for such interests. As noted above, I have been directly involved in the management of the Debtors' investment in the EuroLog Assets and, like all of the businesses and investments that I manage for the Debtors, have worked diligently to maximize the return from the investment.

12. It is standard market practice to provide certain warranties, indemnifications, and guarantees required by the Purchaser, and I do not believe that the Purchaser would have agreed to the Sale without them. In my business judgment, the Sale, including the required warranties, indemnifications, and guarantees, represents the best possible outcome for the Debtors and their estates.

13. In working on the Debtors' behalf, I and the other professionals have strived to attain the highest price possible for the Debtors' interest in the EuroLog Assets. Neither I, nor the other professionals working with me have sought to collude with the Purchaser—or any other party—at any time in connection with the Sale. I am not aware of any agreement between the Purchaser and any other party with respect to the purchase price for the EuroLog Assets, and I believe the Purchaser has negotiated at arms' length and in good faith with respect to the Sale.

14. The Debtors have been represented by their own advisors and professionals separate from those representing the Purchaser. To the best of my knowledge and belief, no party affiliated with the Debtors now holds any direct or indirect interest in the Purchaser, nor will they hold any direct or indirect interest in the Purchaser as a result of the Sale.

15. At all times throughout the Sale process, I kept the Debtors' senior management apprised of all relevant developments. I am aware that the Debtors' senior management committee has analyzed the Sale and has approved the Sale. Additionally, the Debtors have conferred with the professionals for the Committee and the JPLs throughout the Sale process, and I have been informed that the Committee and the JPLs support the Sale.

16. The parties are concerned that if the Sale closes after the Plan's Effective Date that the Sale could be subject to the Plan's Disposition Procedures. If the Sale were subject to the Disposition Procedures, and if the Debtors and the EuroLog Affiliates were required to restart the marketing process upon the occurrence of the Effective Date, I believe that the Sale would not close with the Purchaser, and I believe that any future sale of the EuroLog Assets would ultimately be at a price lower than the negotiated purchase price with the Purchaser. To the extent that the Disposition Procedures apply to the Sale, I believe the Sale process outlined above substantially satisfies the Plan's Disposition Procedures and the primary purpose behind the Disposition Procedures.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 6th day of September, 2013.

/s/ Martin Tan
Martin Tan

EXHIBIT C

SHARE PURCHASE AGREEMENT

Dated 4th September 2013

CRESCENT EURO INDUSTRIAL II LLC

and

[ ]

and

[ ] PROPERTIES S.R.O.

and

ARCAPITA LIMITED

and

RA HOLDCO 2 LLC

and

ARCAPITA BANK B.S.C.(c)

SHARE PURCHASE AGREEMENT

relating to the [ ] Properties s.r.o. group

Linklaters LLP

One Silk Street
London EC2Y 8HQ

Telephone (44-20) 7456 2000
Facsimile (44-20) 7456 2222

Ref L-204268

This Agreement is made on 4th September 2013

Among:

(1) **CRESCENT EURO INDUSTRIAL II LLC**, a company incorporated in Delaware with company number 3678980 and whose registered office is at c/o Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, United States (the "**Seller**"); and

(2) [ ] (the "**Buyer**");

(3) [ ] **PROPERTIES S.R.O.**, a company incorporated in the Czech Republic with company number 28215061 and whose registered office is at Karolinská 650/1, Prague 8, Postal Code 186 00, Czech Republic ("[ ]");

(4) **ARCAPITA LIMITED**, a company incorporated in England with company number 04651821 and whose registered office is at 2nd Floor, 15 Sloane Square, London SW1W 8ER ("**Arcapita Limited**");

(5) **ARCAPITA BANK B.S.C.(c)**, a closed Bahraini shareholding company duly incorporated in the Kingdom of Bahrain with commercial registration number 36403 and formerly First Islamic Investment Bank E.C., an exempt joint stock company ("**Arcapita**"); and

(6) **RA HOLDCO 2 LLC**, a company incorporated in Delaware with company number 5359541 ("**RAH**").

Each of the Seller and the Buyer is hereinafter referred to as a "**party**" and, jointly, as the "**parties**".

Recitals:

(A) The Seller owns, or will on completion of the Reorganisation Arrangements own, the Shares.

(B) Subject to the terms and conditions of this Agreement, the Seller has agreed to sell the Shares and to assume the obligations imposed on the Seller under this Agreement.

(C) Subject to the terms and conditions of this Agreement, the Buyer has agreed to purchase the Shares and to assume the obligations imposed on the Buyer under this Agreement.

(D) Arcapita and RAH have agreed to enter into this Agreement as guarantor of certain obligations of the Seller Entities pursuant to the terms of this Agreement (and from such time as expressly stated in this Agreement) in consideration for the benefit they will receive from the sale transactions contemplated by this Agreement and the Master Transfer Agreement.

(E) On or prior to the date of this Agreement, in connection with the transactions contemplated in the Purchase Documents, the Seller has provided the Finance Consents (other than the Finance Consents listed at paragraphs (d) and (e) of that definition) and [ ] Consent to the Buyer.

It is agreed:

1 Interpretation

1.1 In this Agreement (including its Recitals and Schedules), the following words and expressions have the meanings respectively set opposite them:

"**Actual Tax Liability**" has the meaning given to "actual tax liability" in Schedule 8;

"**Affiliate**" means in relation to any party (i) each of its parent undertakings; and (ii) any subsidiary undertaking of such party or of any of its parent undertakings;

"**Aim Minority Sale Share**" has the meaning given to Aim Minority Sale Share in the Master Transfer Agreement;

"**Announcement**" means any announcement relating to the subject matter of this Agreement as may be agreed between the parties in writing;

"**Anti-Bribery Law**" means any applicable Law that relates to bribery or corruption, including, the US Foreign Corrupt Practices Act of 1977 and the UK Bribery Act 2010, in each case as amended, re-enacted or replaced from time to time;

"**Approval Motion**" means a certain motion (whereby the Buyer and its advisers shall be consulted with as to the motion's, content, provided that such consultation shall not prejudice the Seller's and Arcapita's obligation under Clause 7.8) to be filed with the Bankruptcy Court requesting the entry of the Court Order, which shall not include any reference to or description which would identify the Buyer or its Affiliates;

"**Arcapita Plan**" means that certain Confirmed Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and the Related Debtors under Chapter 11 of the Bankruptcy Code (With First Technical Modifications) dated as of June 11, 2013 [Docket No. 1265], confirmed by that certain order of the Bankruptcy Court dated June 17, 2013 [Docket No. 1262] and as such may be amended, modified, or supplemented from time to time, including, without limitation, all Plan Documents, as such term is defined in the Arcapita Plan;

"**Articles**" means the articles of incorporation of the Company;

"**Associated Person**" means, in relation to a company, a person (including any director, officer, employee, agent or other intermediary) who performs services for or on behalf of that company;

"**Authorised Person**" means any person who has either the actual or implied authority to represent or bind Arcapita, RAH or the Seller or any of its or their respective Affiliates when soliciting offers or negotiating terms in respect of a sale of all or any part of the Target Group (or any other related transaction that has the effect of the sale of all or any part of the Target Group);

"**Bankruptcy Code**" means title 11 of the United States Code, 11 U.S.C. sections 101-et seq., as amended;

"**Bankruptcy Court**" means the United States Bankruptcy Court for the Southern District of New York;

"**Business Day**" means (unless otherwise expressly stated in this Agreement) any day (except any Saturday or Sunday) on which banks in the City of London and New York City are open for business other than where such term is used in Clause 5.4 where "**Business Day**" shall be any day (except any Saturday or Sunday) on which banks in the country in which the relevant Target Group Member is incorporated are open for business;

"**Business IP**" means the Owned IP and all other Intellectual Property Rights used by the Target Group;

"**Business Warranties**" means the Warranties other than the Fundamental Warranties and Tax Warranties and "**Business Warranty**" means any one of them;

"**Business Warranty Claim**" means a claim for breach of any Business Warranty;

"**Buyer's Completion Documents**" has the meaning set out in Clause 11.1;

"**Buyer's Group**" means the Buyer, each of its Affiliates from time to time (including, for the avoidance of doubt, the Target Group with effect from Completion) and "**Buyer's Group Member**" shall be construed accordingly;

"**Buyer Obligation**" means any warranty or undertaking to indemnify (including any covenant to pay pursuant to Schedule 8) given by the Buyer to the Seller under this Agreement;

"**Buyer's Solicitors**" means Freshfields Bruckhaus Deringer LLP of 65 Fleet Street, London EC4Y 1HS;

"**Chapter 11 Cases**" means the cases commenced under chapter 11 Bankruptcy Code in relation to the Debtors;

"**Claim**" means any claim, proceeding, suit or action arising out of or in connection with any Purchase Document;

"**Companies Act**" means the Companies Act 2006 as amended at any time prior to the date hereof;

"**Company**" means [ ] Limited, a company incorporated in Jersey with company number 111161 and whose registered office is at Ogier House, The Esplanade, St. Helier, Jersey JE4 9WG;

"**Completion**" means the completion of the sale and purchase of the Shares pursuant to Clause 6;

"**Completion Date**" means, provided this Agreement has not been terminated in accordance with Clauses 5.6 or 9, either the Business Day which is 5 Business Days after satisfaction of the Conditions or such later or earlier date as may be agreed between the Buyer and the Seller in writing;

"**Conditions**" means the conditions set out in Clause 5.1;

"**Confidentiality Agreement**" means the confidentiality agreement dated 27 July 2012 between Arcapita Limited, [ ] and [ ];

"**Constitutional Documents**" means with respect to an entity its memorandum and articles of association, by-laws, partnership agreement or equivalent constitutional documents;

"**Costs**" means obligations, liabilities, losses, damages, costs (including legal costs) and expenses (including tax) in each case of any nature whatsoever (subject to Clause 23.4);

"**Costs Undertaking**" means the costs undertaking entered into between inter alia, the Seller's Solicitors and [ ] dated 13 August 2013;

"**Court Order**" means a court order entered by the Bankruptcy Court authorising: (i) the entry by Arcapita into the Agreement and the provision by Arcapita of the Guarantee; (ii) the assumption by RAH, as of the Effective Date and subject to ratification by RAH, of the Guaranteed Obligations, including those of Arcapita prior to the Effective Date; (iii) entry by Arcapita into the Master Transfer Agreement; and (iv) such other actions as are necessary or appropriate to authorise, approve and facilitate the transactions contemplated by this Agreement and the Master Transfer Agreement and related agreements;

"**Data Room**" means the data room comprising the documents and other information relating to the Target Group made available by the Seller and as listed on the data room index set out in Annex 13 of the Linklaters VDD Report and which is contained within the DVD of the Data Room;

"**Debt Summary Schedule**" means the schedule setting out the principal financial terms of each of the Facilities in the agreed form;

"**Debtors**" means Arcapita Bank B.S.C.(c), Arcapita Investment Holdings Limited, Arcapita LT Holdings Limited, Windturbine Holdings Limited, AEID II Holdings Limited and Railinvest Holdings Limited;

"**Deeds of Accession**" has the meaning given to it in Clause 27.1.1;

"**Default Interest**" means interest at LIBOR plus 2 per cent;

"**Development Land Bank**" means those Properties identified as being part of the Development Land Bank in Schedule 7;

"**Disclosed Schemes**" means each of the pension schemes operated by any member of the Target Group and/or to which any member of the Target Group is subject, including for the avoidance of doubt, all individual pension arrangements of the Employees;

"**Disclosed Seller's Transaction Costs**" means the following Seller's Transaction Costs: [ ];

"**Disclosure Letter**" means the letter from the Seller to the Buyer executed and delivered immediately before the signing of this Agreement;

"**Distribution Centre Properties**" means those Properties which are listed in Part A of Schedule 7 (and which include those Properties that constitute the Development Land Bank) and "**Distribution Centre Property**" means any one of them;

"**Effective Date**" has the meaning given to it in the Arcapita Plan;

"**Employees**" means the employees of the Target Group Members immediately before Completion;

"**Environment**" means all or any of the following media, namely air (including the air within buildings or other natural or man-made structures above or below ground), water or land;

"**Environmental Consents**" means any material permit, licence, authorisation, approval or consent required under Environmental Laws for the carrying on of the business of the relevant Target Company in the jurisdiction(s) in which it operates;

"**Environmental Laws**" means all international, European Union, national, state, federal, regional or local laws (including common law, statute law, civil and criminal law) which are in force and binding on the Target Companies at the date of this Agreement, to the extent that they relate to Environmental Matters;

"**Environmental Matters**" means all matters relating to the pollution or protection from damage of the Environment;

"**Equity Consideration**" has the meaning set out in Clause 3.1;

"**Exclusivity Letter**" means the exclusivity letter entered into between [ ] and Arcapita Limited dated 19 July 2013;

"**Exclusivity Period**" has the meaning given in Clause **Error! Reference source not found.**;

"**Facilities**" has the meaning set out in Schedule 10;

"**Finance Consents**" means the following consent letters required to be obtained in connection with the implementation of certain features of the Arcapita Plan and the Transaction in the agreed form:

(a) consent letter from [ ], in relation to the relevant Facilities with regard to, amongst other things, the transfer of intercompany loans;

(b) consent letter from [ ] in relation to the relevant Facility in respect of, amongst other things, notification of the change of control of AEID II (Lux) Holding Company S.à r.l. and the consent to disclosure of information in relation to the relevant Facility;

(c) consent letter from [ ] in respect of, amongst other things, consent to transfer of GEMFI S.A.S.'s shareholding in ArcIndustrial France Development I S.à r.l. to ArcIndustrial European Development S.à r.l. and related partial release and confirmation agreement in relation to an existing share pledge agreement;

(d) consent letter from [ ], in relation to the relevant Facilities as they impact, amongst other things, the Arcapita Plan and the Transaction;

(e) consent letter from [ ] in relation to the change of control of AEID II (Lux) Holding Company S.à r.l. and disclosure of information under the relevant Facility;

(f) consent letter from [ ] in relation to the [ ] Facility with regard to, amongst other things, the implementation of the Arcapita Plan and the Transaction; and

(g) consent letter from [ ] in relation to the relevant Facilities in respect, amongst other things, of consent to the disclosure of information under the relevant Facilities.

"**Financial Debt**" means all borrowings and other indebtedness in the nature of borrowings to any person outside of the Seller's Group including, without limitation, by way of overdraft, acceptance credit or similar facilities, loan stocks, bonds, debentures, notes, debt or inventory financing, finance leases or sale and leaseback arrangements, cash pooling arrangements or any other arrangements the purpose of which is to borrow money or raise finance, together with forex, interest rate or other swaps, hedging obligations, bills of exchange, recourse obligations on factored debts and obligations under other derivative instruments but excludes trade credit incurred in the ordinary course of business;

"**Fundamental Warranties**" means the Warranties set out in paragraphs 1.1 and 1.2 of Part A of Schedule 2;

"**Funds Flow**" means the spreadsheet in the agreed form;

"**Gemfi Charges**" has the meaning given to the term Charges in the Gemfi SPA;

"**Gemfi Consideration**" means the aggregate consideration payable by Arcindustrial European Developments S.À R.L, Arcindustrial France Development I S.À R.L. and the Company under the Gemfi SPA;

"**Gemfi SPA**" means the share and receivable transfer agreement between Gemfi S.A.S, Arcindustrial European Developments S.À R.L, Arcindustrial France Development I S.À R.L. and [ ] Limited dated on or around the date of this Agreement;

"**Governmental Entity**" means:

(a) the government of any jurisdiction (including any national, state, municipal or local government or any political or administrative subdivision thereof) and any department, ministry, agency, instrumentality, court, central bank, commission or other authority thereof, including without limitation any entity directly or indirectly owned (in whole or in part) or controlled thereby;

(b) any public international organisation or supranational body (including without limitation the European Union) and its institutions, departments, agencies and instrumentalities; and

(c) any quasi-governmental or private body or agency lawfully exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory, licensing, competition, tax, importing or other governmental or quasi-governmental authority;

"**Government Official**" means:

(a) any official, employee or representative of, or any other person acting in an official capacity for or on behalf of:

(i) any governmental authority, including any entity owned or controlled thereby;

(ii) any political party or political candidate; or

(iii) any public international organisation; and

(b) any candidate for political office or an person acting on his or her behalf;

"**Guarantee**" means the guarantee set out at Clause 26;

"**Guaranteed Obligations**" means the Guaranteed Financial Obligations and the Guaranteed Performance Obligations, each as defined in Clause 26.1;

"**Guarantor**" means Arcapita in respect of the period on and from the date of the Court Order until the Effective Date and, with effect from the Effective Date and expressly subject to Clauses 5.2 and 5.3, RAH (or such other entity that is proposed to stand as guarantor in RAH's stead and acceptable to the Buyer in its sole discretion (acting reasonably and having regard to the creditworthiness of such proposed replacement guarantor)) on and after the Effective Date;

"**Implementation Memorandum**" has the meaning given to it in the Arcapita Plan;

"**Hypothekenbank Facility**" means the facility referred to at paragraph (s) of Schedule 10 (*The Facilities*);

"**Insured Parties**" has the meaning given to it in Clause 10.27;

"**Intellectual Property Rights**" or "**IPR**" means:

(a) patents, utility models and rights in inventions;

(b) rights in each of know-how, confidential information and trade secrets;

(c) trade marks, service marks, rights in logos, trade names, rights in each of get-up and trade dress, rights to sue for passing off (including trade mark-related goodwill), rights to sue for unfair competition, and domain names;

(d) copyright, moral rights, database rights, rights in designs, and semiconductor topography rights;

(e) any other intellectual property rights; and

(f) all rights or forms of protection, subsisting now or in the future, having equivalent or similar effect to the rights referred to in paragraphs (a) to (e) above,

in each case: (i) anywhere in the world; (ii) whether unregistered or registered (including, for any of them, all applications, rights to apply and rights to claim priority) and (iii) including, in respect of any of them, all divisionals, continuations, continuations-in-part, reissues, extensions, re-examinations and renewals;

"**IT Contracts**" has the meaning set out in paragraph 4.1 of Part B of Schedule 2;

"**IT Systems**" means the information and communication technologies used by the Target Companies, including hardware, proprietary and third party software and associated documentation that are material to the business of the Target Companies taken as a whole;

"**Key Managers**" means [ ] and [ ];

"**KPMG Addendum**" means the addendum to the KPMG Structure Paper dated 2 September 2013;

"**KPMG Structure Paper**" means the steps paper prepared by KPMG LLP dated 28 August 2013 as amended and supplemented by the KPMG Addendum, each of which has been initialled for identification purposes by or on behalf of the Seller and the Buyer;

"**KPMG Reports**" means (i) the KPMG Structure Paper (ii) the KPMG Addendum and (iii) the final tax due diligence report prepared by KPMG LLP on behalf of the Buyer in connection with the Transaction, and "**KPMG Report**" means any one of them;

"**KYC Requirements**" means all necessary "know your customer" or other similar checks under all applicable laws and regulations in relation to the assumption by the Substitute Buyer of the Buyer's rights and obligations under this agreement pursuant to Clause 27;

"**Last Accounts**" means the audited aggregated interim financial statements of the '[ ] Property Group' (which includes the Company and each member of the Target Group) as of and for the six month period ended on the Last Accounts Date;

"**Last Accounts Date**" means [ ];

"**Law**" means any statute, law, rule, regulation, guideline, ordinance, code, policy or rule of common law issued, administered or enforced by any Governmental Entity, or any judicial or administrative interpretation thereof;

"**Leakage**" means:

(a) any dividend or distribution of profits or assets declared, paid or made, or any payments in lieu of any dividend or distribution, paid or made, whether in cash or in kind, or any repurchase, redemption or return of share or loan capital paid, in each case by any member of the Target Group to the Seller or any member of the Seller's Group;

(b) any payments made whether in cash or in kind (including repayments of indebtedness (including any interest), payments of management, advisory, monitoring, service or directors' fees, charges or other compensation) by any

member of the Target Group to, or on behalf of, (in each case for the direct benefit of) the Seller or any member of the Seller's Group;

(c) any assets, rights, values or benefits transferred from, or liabilities or obligations assumed, indemnified, guaranteed or incurred (including in relation to any recharging of costs of any kind) by any member of the Target Group, for the direct benefit of the Seller or to any member of the Seller's Group;

(d) the waiver, deferral or release (whether conditional or not), by any member of the Target Group of any amount owed to that member of the Target Group by the Seller or any member of the Seller's Group;

(e) any bonuses or other form of payment given by any member of the Target Group to any director, officer, employee, adviser, or consultants of or to any member of the Target Group directly relating to the Transaction;

(f) any Seller's Transaction Costs; and

(g) any Tax paid or payable by any member of the Target Group in respect of any of the matters set out in paragraphs (a) to (f) above, but only to the extent not already taken into account in determining the amount of any Leakage falling within (a) to (f) above,

but does not include any Permitted Leakage. For the purposes of this definition, reference to the Seller or any member of the Seller's Group shall include any nominee, trustee or agent or any other person receiving monies on behalf of any such person but shall exclude any Target Company and in the context of this definition "Seller's Group" shall exclude any Target Company);

"**Leakage Claim**" means any claim made pursuant to Clause 12;

"**Liability Cap**" has the meaning given to it in Clause 10.1;

"**LIBOR**" means the London interbank offered rate administered by the British Bankers Association (or any other person which takes over the administration of that rate) for the three month period displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Reuters;

"**Linklaters VDD Reports**" means the legal vendor due diligence reports prepared by Linklaters LLP and dated 30 August 2013 in respect of the Transaction;

"**Locked Box Accounts**" means the unaudited aggregated interim financial statements of the '[ ] Property Group' (which includes the Company and each member of the Target Group) as of and for the six month period ended on the Locked Box Date in the agreed form;

"**Locked Box Date**" means [ ];

"[ ] **Consent**" means the approval of [ ]:

(a) in its capacity as shareholder of L.P. One Halbergmoos S.à r.l., to the transfer of shares in L.P. One Halbergmoos S.à r.l. from First Euro Industrial Properties II S.à r.l. to Second Euro Industrial Properties S.à r.l. and to the assignment of a pledge over such shares; and

(b) in its capacity as shareholder of L.P. Three Darmstadt S.à r.l., to the transfer of shares in Three Darmstadt S.à r.l. from First Euro Industrial Properties II S.à r.l. to Second Euro Industrial Properties S.à r.l. and to the assignment of a pledge over such shares;

"**Losses**" means all losses, liabilities, costs (including legal costs and experts' and consultants' fees), charges, expenses, actions, proceedings, claims and demands, and "**Loss**" shall be construed accordingly;

"**Management Accounts**" means the unaudited aggregated interim financial statements of the '[ ] Property Group' (which includes the Company and each member of the Target Group) as of and for the six month period ended on the Management Accounts Date;

"**Management Accounts Date**" means [ ];

"**Master Transfer Agreement**" means the master transfer agreement entered into by, *inter alios*, the Company and Arcapita Bank B.S.C.(c) on the date of this Agreement;

"**Master Transfer Agreement Consideration**" means EUR [•], being the 'consideration' to be paid under the Master Transfer Agreement;

"**Material Breach**" means, in respect of a breach of any Termination Warranty, where such breach would give rise to a liability for damages in excess of EUR [•];

"**Material Contracts**" means:

(a) any agreement under which a [ ] Management Company is providing or has agreed to provide asset management or development management services to a third party at the date of this Agreement;

(b) Spanish Property Agreements;

(c) any other agreement under which a Target Company or a counterparty to an agreement with a Target Company has an outstanding contractual obligation to incur expenditure or make capital commitments of more than EUR [•] (excluding VAT) in aggregate, excluding for these purposes any of the following:

(i) any contract relating to the employment or benefits of an Employee;

(ii) any occupational lease relating to any of the Properties; and

(iii) any documentation relating to the Facilities;

"**New Downstream Receivable**" has the meaning given to it in the Master Transfer Agreement;

"**New Upstream Receivable**" has the meaning given to it in the Master Transfer Agreement;

"**Non-Tax Claim**" means a Claim other than a Tax Claim;

"**Operative Time**" has the meaning given to the term Effective Time in the Master Transfer Agreement;

"**Operative Time Notice**" has the meaning given to the term Effective Time Notice in the Master Transfer Agreement;

"**Owned IP**" means the Intellectual Property Rights owned by the Target Group Members;

"**Owned Registered IP**" means all Owned IP that is registered or the subject of applications for registration, including the Intellectual Property Rights listed in Schedule 6;

"[ ] **Management Companies**" means Arcapita Industrial Management S.À R.L., (a société à responsabilité limitée governed by the laws of the Grand Duchy of Luxembourg registered with the Luxembourg Register of Commerce and Companies under number B 136493, having a share capital of EUR12,500 and whose registered office is at 6C, rue Gabriel Lippmann, L-5365 Munsbach, Luxembourg) and its subsidiaries as at the date of this Agreement and "[ ] **Management Company**" means any one of them;

"**Permitted Third Party Right**" means Third Party Rights arising in the ordinary course of business or by operation of law;

"**Permitted Leakage**" means:

(a) any payment made or agreed to be made, liability, cost or expense incurred or agreed to be incurred in each case by a member of the Target Group which is specifically and expressly provided for under the terms of this Agreement or the Reorganisation Arrangements;

(b) any assets to be transferred or agreed to be transferred by a Target Group Company to any member of the Seller's Group pursuant to a specific and express provision in the Reorganisation Arrangements;

(c) any Disclosed Seller's Transaction Costs incurred or paid or agreed to be paid or payable;

(d) any payment made or liability, cost or expense incurred by a Target Group Company between the date of this Agreement and Completion in connection with any matter undertaken at the express written request of the Buyer and not otherwise covered by (a) to (c) above; and

(e) any Tax incurred or paid by any member of the Target Group in respect of a matter set out in paragraph (d) above, but only to the extent the action is outside the ordinary course of business and written approval is given by the Buyer expressly for the purposes of this provision;

"**Permitted Work Schedule**" means the schedule entitled "Permitted Works" in the agreed form;

"[ ]" means the Properties and the [ ] Management Companies;

"**Pre-Completion Period**" means the period from and including the date of this Agreement up to and including Completion;

"**Properties**" means the land and buildings which are set out in Schedule 7 and all of which are either owned or leased by any of the Target Companies;

"**Purchase Documents**" means together the Transaction Documents and the Reorganisation Documents and any other documents in the agreed form and "**Purchase Document**" means any one of them;

"**Receiving Parties**" has the meaning given to it in Clause 4.3;

"**Regulatory Authority**" means [ ];

"**Reorganisation Arrangements**" means the arrangements relating to the reorganisation of the Target Group described in the KPMG Structure Paper (including the transfer of the Portfolio) and effected in accordance with the Master Transfer Agreement, together with all other payments, arrangements, agreements or other steps entered into, contemplated by, effectuated or taken in connection therewith;

"**Reorganisation Documents**" means the Master Transfer Agreement and any documents referred to or contemplated in the Master Transfer Agreement;

"**Reorganisation Indemnity**" means the undertaking and indemnity set out in Clause 8;

"**Reorganisation Tax Indemnity**" means the indemnity set out in Clause 8.2.4;

"**Seller's Completion Documents**" has the meaning given to it in paragraph 1.1 of Part A of Schedule 2;

"**Seller Entities**" has the meaning given to it in Clause 10.1;

"**Seller Obligation**" means any warranty or undertaking to indemnify (including any covenant to pay pursuant to Schedule 8 or Clause 12) given by the Seller to the Buyer under this Agreement;

"**Seller's Group**" means unless otherwise expressly stated in this Agreement, the Seller and its Affiliates but excludes, with effect from Completion, the Target Group;

"**Seller's Solicitors**" means Linklaters LLP of One Silk Street, London EC2Y 8HQ;

"**Seller's Solicitors' Account**" means Linklaters LLP Euro Client Account; IBAN: GB51LOYD30957488007903; Account Number: 88007903;

"**Seller's Transaction Costs**" means any professional fees, expenses, transaction or other professional costs paid or incurred or owing directly in connection with the Transaction payable by any member of the Target Group;

"**Service Provider**" means an Associated Person who is a legal person;

"**Shares**" means the two ordinary shares each with a nominal value of £0.01, (being the entire issued share capital of the Company as at the date of this Agreement) and, in addition, one ordinary share with a nominal value of £0.01 (being, along with the two initial ordinary shares, the entire issued share capital of the Company, immediately following the Operative Time);

"**Sharia Fee**" has the meaning given to it in the Master Transfer Agreement;

"**Sharia Fee Historic Tax Claim**" means a claim under paragraph 1.4 of Schedule 8 (which for the avoidance of doubt includes any amounts payable pursuant to paragraph 3 of Schedule 8 in respect of a claim under that paragraph);

"**Spanish Property Agreements**" means:

(a) the asset management agreement between Crescent Euro Industrial III Spain 1, S.L. and [ ] dated 29/09/2009, relating to various asset management services for four logistics premises: no. 11671 La Almunia de Dona Godina (Pedrola); no. 38670 Valdemoro; no. 3774 Guadalajara (Alovera); and no. 9549 Guadalaja (Fontanar); and

(b) the asset management agreement between Crescent Euro Industrial III Spain 3, S.L. and [ ] dated 29/09/2009, relating to various asset management services for

two logistics premises: no.5667 el Vendrell (La Bisbal) and no. 8805 Guadalajara (Alovera);

"**Spanish Properties**" means the properties held at the following addresses:

(a) Calle General Motor, 34, PI El Pradillo, Zaragoza, Aragòn (Pedrola), Spain;

(b) Avda de Majuelo, 19, PI La Postura, Valdemorro, Madrid, Spain;

(c) Calle Manyans, Les Planes Industrial Estate, 43717 La Bisbal del Penedès, Tarragona, Spain;

(d) Avenida Rìo Henerres 76, Alovera (Guadalajara) Polìgono Novalia, Spain;

(e) Parcela C-4, Sector 3, PI Europa, Alovera, Guadalajara, Spain; and

(f) Sector 11, Plot 2.2, PI Fontanar, Guadalajara, Spain;

"**Subsidiaries**" means the companies details of which are set out in Schedule 9 and "**Subsidiary**" means any one of them;

"**Substitute Buyer**" has the meaning given to it in Clause 27.1;

"**Supply**" has the meaning given to it in Clause 23.2;

"**Surviving Provisions**" means Clauses 1, 4.4, 6.4, 6.5, 9, 14.1 to 14.4 (inclusive), 16 and 18 to 26 (inclusive);

"**Target Group**" means the Company and each of those undertakings as set out in Schedule 9 which shall on Completion be subsidiary undertakings of the Company and "**Target Group Member**", "**member of the Target Group**" and "**Target Company**" shall be construed accordingly;

"**Tax**" or "**Taxation**" means any (i) taxes on gross or net income, profits and gains; and (ii) all other taxes, levies, duties, imposts, charges and withholdings of any fiscal nature, including any excise, capital, net worth, net wealth, asset value, property, French 3%, value added, sales, use, occupation, stamp, registration, transfer, franchise and payroll taxes and any social security or social fund contributions together with all penalties, charges and interest relating to any of the foregoing or to any late or incorrect return in respect of any of them, including any payment whatsoever that the relevant person may be or become bound to make to any person as a result of the discharge by that person of any tax which the relevant person has failed to discharge, and regardless of whether such taxes, levies, charges, withholdings, penalties and interest are chargeable directly or primarily against or attributable directly or primarily to the relevant person or any other person and of whether any amount of them is recoverable from any other person;

"**Tax Authority**" means a taxing or other governmental (local or central) state or municipal authority (whether within or outside the United Kingdom) competent to impose a liability for or to collect Tax;

"**Tax Claim**" means a claim for breach of any of the Tax Warranties or pursuant to the Tax Covenant or a Tax Secondary and Non-Covenant Claim or a Sharia Fee Historic Tax Claim;

"**Tax Covenant**" means the covenants relating to tax set out in paragraphs 1.1 and 1.3 of Schedule 8 (which for the avoidance of doubt includes any amounts payable pursuant to paragraph 3 of Schedule 8 in respect of a claim under those paragraphs);

"**Tax Liability**" has the meaning given to "tax liability" in Schedule 8;

"**Tax Secondary and Non-Covenant Claim**" means a claim under paragraph 1.2 of Schedule 8 (which, for the avoidance of doubt includes any amounts payable pursuant to paragraph 3 of Schedule 8 in respect of a claim under that paragraph) or any other claim under Schedule 8 which is not a claim under the Tax Covenant or a Sharia Fee Historic Tax Claim;

"**Tax Warranties**" means the Warranties set out in Part G of Schedule 2;

"**Termination Warranties**" means the Warranties set out in paragraph 1.2 of Part A of Schedule 2 and given in accordance with Clause 7.1;

"**Third Party Right**" means any interest or equity of any person (including any right to acquire, option or right of pre-emption or conversion) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention, encumbrance or any other security agreement or arrangement, or any agreement to create any of the above;

"**Transaction**" means the transactions contemplated by the Purchase Documents;

"**Transaction Documents**" means this Agreement, the Disclosure Letter and each of the other documents in the agreed form and any other document entered into or to be entered into pursuant to this Agreement but excluding the Reorganisation Documents and the Costs Undertaking;

"**UCC**" means the official committee of unsecured creditors of the Debtors appointed in the Chapter 11 Cases;

"**Upstream Receivable**" has the meaning given to it in the Master Transfer Agreement;

"**VAT**" means value added tax and any similar sales or turnover tax in any relevant jurisdiction;

"**Warranties**" means those warranties given by the Seller under this Agreement as are set out in Schedule 2; and

[ ]

"**Working Hours**" means 9.30 a.m. to 5.30 p.m. (by reference to the time zone in the relevant country in which such expression is being applied) on a Business Day.

1.2 In this Agreement, unless the context otherwise requires:

1.2.1 references to this Agreement, a Purchase Document or any other document in the agreed form or in the agreed terms include this Agreement, that Purchase Document or such other document as varied, modified or supplemented in accordance with the terms hereof;

1.2.2 references to recitals, paragraphs, clauses and schedules and sub-divisions of them, unless the context otherwise requires, are references to the Recitals, paragraphs, and Clauses of, and Schedules to, this Agreement and sub-divisions of them respectively and the Recitals and Schedules to this Agreement form part of it;

1.2.3 references to a Purchase Document or any other document in the agreed form or in the agreed terms shall include any schedules, annexes, appendices or exhibits to that Purchase Document or other document;

1.2.4 references to any enactment includes references to such enactment as re-enacted, amended or extended on or before the date of this Agreement and any subordinate legislation made from time to time under it save to the extent that reference to such re-enactment, amendment or extension increases the liability or renders the obligations of any party hereto more onerous;

1.2.5 references to a "**person**" include any individual, company, body corporate, corporation, firm, partnership, joint venture, association, organisation, institution, trust or agency, whether or not having a separate legal personality;

1.2.6 references to the one gender include all genders, and references to the singular include the plural and vice versa;

1.2.7 headings are inserted for convenience only and shall be ignored in construing this Agreement;

1.2.8 the words "**including**", "**include**", "**in particular**" and words of similar effect shall not be deemed to limit the general effect of the words which precede them;

1.2.9 the words "**body corporate**", "**company**", "**subsidiary**", "**subsidiary undertaking**", "**parent undertaking**" and "**holding company**" have the meanings given to them by the Companies Act;

1.2.10 save as otherwise expressly provided, a procuring obligation where used in the context of the Seller in relation to a Target Group Member means that the Seller shall exercise its voting rights as a direct or indirect shareholder in such Target Group Member to ensure compliance with the relevant obligation so far as it is legally able to do so;

1.2.11 references to a "**company**" shall also be construed to include any other company, corporation or body corporate wherever and however incorporated or established;

1.2.12 references to RAH herein shall refer to RAH or such person that lawfully accedes to the Guaranteed Obligations in accordance with the terms of this Agreement;

1.2.13 save as otherwise expressly provided, references to time of the day are to London time; and

1.2.14 references to a document being "**in the agreed terms**" or "**in the agreed form**" is to a document in the terms agreed between the parties and for identification purposes only signed or initialled by them or on their behalf on or before the date of this Agreement (unless expressly stated otherwise).

2 Sale and Purchase

2.1 On and subject to the terms and conditions of this Agreement, the Seller agrees to sell, with full legal and beneficial title and free from all Third Party Rights, the Shares to the Buyer on and with effect from Completion and together with all rights which are at Completion attached to them (including, without limitation, the rights to receive all dividends and distributions declared, made, accrued or paid on or after such time).

2.2 On and subject to the terms of this Agreement, the Buyer agrees to purchase and receive all Shares on and with effect from Completion.

2.3 The Seller hereby waives, and agrees to procure the waiver of, any rights of redemption, pre-emption, first refusal or transfer it may have with respect to the Shares which may have been conferred on it under the Articles or otherwise.

2.4 The Buyer shall not be obliged to complete the acquisition of the Shares unless the purchase of all of the Shares is completed simultaneously.

3 Equity Consideration

3.1 The aggregate purchase price payable by the Buyer for the Shares shall be an amount equal to EUR [•] (the "**Equity Consideration**") all of which shall be paid in cash on Completion as set out in Clause 6.

3.2 The Buyer and the Seller acknowledge and agree that in addition to payment of the Equity Consideration, in connection with the transactions contemplated by this Agreement, the Buyer is upon Completion also undertaking to procure payment of (i) the Master Transfer Agreement Consideration by the relevant Target Companies in accordance with the Master Transfer Agreement and (ii) the Gemfi Charges. The Buyer and the Seller further acknowledge and agree that the consideration to be paid under the Master Transfer Agreement shall be allocated (as provided for in the Master Transfer Agreement) as between the relevant interests to be acquired thereunder.

3.3 The aggregate amounts of the Equity Consideration and the Master Transfer Agreement Consideration shall not exceed the amount of EUR [•] (inclusive of VAT) (out of which the Seller will use some of these proceeds to pay the Gemfi Consideration and the Disclosed Seller's Transaction Costs on behalf of the relevant entities) and, taken together with payment of the Sharia Fee which shall not exceed an aggregate amount of EUR [•] (inclusive of VAT), the aggregate consideration payable by or on behalf of the Buyer pursuant to the Transaction shall not exceed the amount of EUR111,500,000 (inclusive of VAT) plus an amount up to the amount of the Gemfi Charges to the extent that the Buyer puts the relevant Target Group Company in funds in order to fulfil its obligation in paragraph 7 of Schedule 1 to settle the Gemfi Charges. For the avoidance of doubt, the parties agree that no amount shall be included in the Disclosed Seller's Transaction Costs for any part of any cost, fee or expense that represents VAT to the extent that the VAT is creditable, repayable or recoverable.

4 Pre-Completion

4.1 From the date of this Agreement up to Completion the Seller shall, subject to the provisions set out in Part B of Schedule 4, comply with the obligations set out in Part A of Schedule 4.

4.2 From the date of this Agreement up to Completion the Seller or Arcapita (acting in its own capacity and not as a Guarantor) shall:

4.2.1 promptly notify the Buyer of:

(i) the occurrence of the Effective Date and the consummation of the steps set forth in the Implementation Memorandum, provided, in each case, the Effective Date occurs prior to the Completion Date;

(ii) any decision to abandon or make any amendments to the Arcapita Plan (other than an amendment to the Arcapita Plan that could not be reasonably expected to cause a material adverse change to the Debtors'

financial condition or adversely affect Arcapita's ability to perform under this Agreement) or the inability to satisfy the conditions to effectiveness of the Arcapita Plan;

4.2.2 following submission of the Approval Motion, promptly notify the Buyer of all material submissions, notifications, filings and other communications to or with the Bankruptcy Court or the UCC relating solely to the Approval Motion and provide the Buyer with a final draft of any filing to be made by the Debtors relating to the Approval Motion; provided the foregoing shall not require the Seller to breach any confidentiality obligation that may be owed to another party, including the UCC.

4.3 From the date of this Agreement up to Completion, subject to Clauses 4.4 and 14, the Seller shall procure that the Target Group cooperates with the Buyer, so far as permitted by Law, to allow the Buyer and its agents, advisers and officers (together the "**Receiving Parties**" and each a "**Receiving Party**") reasonable access in Working Hours, and upon reasonable prior written notice, to (i) the books and records of each Target Group Member and such other information in the possession or control of each Target Group Member (including all statutory books, minute books, leases, contracts, supplier lists and customer lists), with the right to take copies; and (ii) subject to any restrictions of access imposed on a Target Group Member pursuant to any lease, rental or tenancy arrangement to which it is subject, the premises from which the Target Group and their businesses operate provided in each case such rights are not used by the Receiving Parties in relation to preparing for a potential claim in connection with a potential Material Breach.

4.4 If this Agreement terminates the rights granted to the Buyer under Clause 4.3 shall immediately cease and the Buyer will, and will procure that the Receiving Parties will, within 5 Business Days of the termination of this Agreement and at its own cost and expense, return to the Company any information supplied pursuant to Clauses 4.2, 4.3 and/or 5.5 and any and all copies of it and confirm to the Company in writing that the information has been erased from all computer records and files, by each of the Receiving Parties except in each such case for (i) any retention that is necessary by the Receiving Party to demonstrate compliance with applicable law, regulation or applicable insurance policy; or (ii) any computer records or files that have been created pursuant to a Receiving Party's archiving and back-up procedures and the removal of which is not technically reasonable, provided that in such cases any information will remain subject to the provisions of Clause 14 (other than Clause 14.4.5 which shall not apply for the purposes of this Clause 4.4).

4.5 The Seller shall procure (at its own cost) that as soon as reasonably practicable following the date of this Agreement the Seller's Solicitors shall:

4.5.1 use their reasonable endeavours to obtain prior to Completion search results in respect of the searches of the relevant authorities in France that were to have been obtained in the preparation of the Linklaters VDD Reports but that are as at the date of this Agreement outstanding or have not been ordered in respect of the Distribution Centre Properties named as St Martin, Herblay (Challenge), Le Pouzin, Bondoufle, Bretigny, Lomme, Avignon and Macon in Part A of Schedule 7; and

4.5.2 upon receipt of any such searches prior to Completion report in writing in the same manner, scope and pursuant to the same limitations as set out in the Linklaters VDD Reports to the Buyer any facts, matters or circumstances revealed by such

search results that would have been disclosed in the Linklaters VDD Reports had those search results been available prior to the date of the Linklaters VDD Reports.

5 Conditions

5.1 The agreement to sell and purchase the Shares contained in Clause 2 is conditional upon satisfaction of the following conditions and the parties agree that, until the conditions have been so performed or satisfied, ownership of the Shares shall be retained by the Seller:

5.1.1 [ ]

5.1.2 the following circumstances having occurred or arisen:

(i) the Effective Date having occurred; and

(ii) no later than three Business Days after the Effective Date:

(a) the post-Effective Date board of managers of RAH having ratified RAH's pre-Effective Date execution of the Agreement and incurrence of the Guaranteed Obligations with effect from the Effective Date and provided an extract of the minutes of that meeting, signed by the chairman of that board of managers, evidencing the same; or

(b) the board of directors/managers (or other appropriate governing body) of an entity other than RAH that shall become the Guarantor with effect from the Effective Date having agreed to adhere to this Agreement and assume all of RAH's obligations hereunder on terms reasonably acceptable to the Buyer, and such entity also having provided an extract of the minutes of that meeting, signed by the chairman of such body, evidencing the same.

5.1.3 The Finance Consents listed at paragraphs (d) and (e) of that definition having been delivered within 10 Business Days of the date of this Agreement.

5.2 Notwithstanding any other provision of this Agreement, the Buyer acknowledges and agrees that RAH shall have no liability or any obligation whatsoever under or pursuant to the terms of the Purchase Documents unless and until the post-Effective Date board of managers of RAH ratify the execution of this Agreement and the incurrence of the Guaranteed Obligations by RAH.

5.3 The parties to this Agreement acknowledge and agree that (a) the Conditions set out in Clause 5.1.2 may be waived in writing at the sole discretion of the Buyer in which case, neither Arcapita nor RAH shall have any liability or obligations whatsoever under or pursuant to the Purchase Documents (whether, in the case of Arcapita, such liability or obligation has occurred or accrued prior to the date of such waiver) and, in such case, the Buyer agrees to hold harmless each of Arcapita and RAH for any Claims (whether past, present or future) arising pursuant to the terms of the Purchase Documents, and (b) if the Condition set out in Clause 5.1.2 is satisfied only by virtue of 5.1.2(ii)(a), then, Arcapita shall not have any liability or obligations whatsoever under or pursuant to the Purchase Documents (whether such liability or obligation has occurred or accrued prior to such satisfaction) and, in such case, the Buyer agrees to hold harmless Arcapita for any Claims (whether past, present or future) arising pursuant to the terms of the Purchase Documents. Without limit to the foregoing, in the case of where this Clause 5.3 applies, the provisions

set out in Clause 26 shall be deemed by the parties to this Agreement to be deleted in their entirety.

5.4 [ ]

5.5 [ ]

5.6 Save as may be expressly waived in accordance with Clause 5.3 and notwithstanding Clause [ ], if the Conditions are not satisfied on or before the date being [•] weeks from (and including) the date of this Agreement, or become incapable of satisfaction by such date, this Agreement shall automatically terminate.

5.7 Each of the Buyer and the Seller undertakes to use all reasonable efforts to satisfy the Condition set out in Clause 5.1.3.

5.8 The Condition set out in Clause 5.1.3 may be waived in writing at the sole discretion of the Buyer.

6 Completion

6.1 The parties agree that until Completion, ownership of the Shares shall be retained by the Seller.

6.2 Completion shall take place at the offices of the Seller's Solicitors in London on the Completion Date.

6.3 At Completion the Seller shall, and shall procure that the Target Companies shall, and the Buyer shall, do all things applicable to each of them as set out in Schedule 1.

6.4 If the obligations of the Buyer and the Seller under Clause 6.3 and/or Schedule 1 are not complied with on the Completion Date in: (i) the case of all items listed in paragraphs 1, 2.4, 3, 4(i) to (iv) (inclusive), 5 and 6 (inclusive) of Schedule 1 in all respects; and (ii) the case of all other items listed in Schedule 1, in all material respects, then the Buyer (in the case of a default by the Seller) or the Seller (in the case of a default by the Buyer) shall be entitled (in addition to and without prejudice to all other rights or remedies available, including the right to claim damages) by written notice to the Buyer or the Seller as the case may be:

6.4.1 to defer Completion for a period of up to 10 Business Days (so that the provisions of this Clause 6 shall apply to Completion as so deferred);

6.4.2 to require the parties to proceed to Completion as far as practicable, having regard to the defaults which have occurred; or

6.4.3 subject to Completion having first been deferred for a period of up to 10 Business Days under Clause 6.4.1 and the parties having used reasonable endeavours to effect Completion during that period, to terminate this Agreement by notice in writing to the Buyer or the Seller as the case may be.

6.5 If this Agreement is terminated in accordance with Clauses 5.6 or 6.4.3 (and without limiting any party's rights and remedies), all obligations of the parties under this Agreement shall end (except for the Surviving Provisions) but for the avoidance of doubt all rights and liabilities of the parties which have accrued before termination shall continue to exist.

6.6 All amounts expressed to be payable by or on behalf of the Buyer to (i) the Seller pursuant to any provision of this Agreement; or (ii) pursuant to paragraphs 1.1 to 1.3 (inclusive) of

Schedule 1, shall be paid by wire transfer to the Seller's Solicitors' Account quoting reference "L-204268" and the receipt of such amount in such account, upon release by the Buyer to the Seller's Solicitors in accordance with the terms of this Agreement, shall be an absolute discharge to the Buyer and to the relevant Target Group Member in respect of the Master Transfer Agreement Consideration, the Disclosed Seller's Transaction Costs, the Sharia Fee and the Gemfi Consideration of the obligation to pay such amount who shall not be concerned to see to the application of any such amount thereafter.

6.7 The Buyer and the Seller acknowledge that certain members of the Seller Group (but excluding the Target Group) have incurred certain costs and expenses in connection with the appointment of the Seller's Solicitors, Deutsche Bank and Credit Suisse as advisers in relation to the Transaction (the "**Advisory Costs**"). The Seller acknowledges that such Advisory Costs are for the sole account of the relevant member of the Seller Group (but not the Target Group) and, accordingly, there shall be no liability on the part of any member of the Target Group to settle any such costs.

7 Seller's Warranties and Undertakings

7.1 The Seller warrants to the Buyer as at the date of this Agreement in the terms of the Warranties. The Fundamental Warranties shall be deemed to be repeated immediately following the Operative Time by reference to the facts and circumstances then existing as if references in the Fundamental Warranties to the date of this Agreement were references to the Completion Date.

7.2 Unless expressly provided in this Agreement, each of the Warranties shall be separate and independent and shall not be limited by reference to any other Warranty.

7.3 Any Warranty qualified by the expression "so far as the Seller is aware" or any similar expression shall, unless otherwise stated, be deemed to refer to the actual knowledge of [ ].

7.4 Other than in respect of the Fundamental Warranties and the Warranties set out at paragraphs 2.1 (*the Last Accounts*), 2.2 *(the Locked Box Accounts)* 2.2 and 2.4 *(the Management Accounts),* 4 *(Regulatory Matters),* 7*(Contractual Matters) and* 8 *(Litigation)* of [ ] Part A of Schedule 2 (which by their nature are warranties relating to generic matters which would include any of the below) the only Warranties given:

7.4.1 in respect of Intellectual Property Rights are those contained in Part B of Schedule 2 and each of the other Warranties shall be deemed not to be given in respect of the Intellectual Property Rights;

7.4.2 in respect of the Properties are those contained in Part C of Schedule 2 and each of the other Warranties shall be deemed not to be given in respect of the Properties;

7.4.3 in respect of the Environment are those contained in Part D of Schedule 2 and each of the other Warranties shall be deemed not to be given in respect of the Environment;

7.4.4 in respect of Tax matters are those contained in Part G of Schedule 2 and each of the other Warranties shall be deemed not to be given in respect of such matters;

7.4.5 in respect of anti-bribery laws are those contained in Part H of Schedule 2 and each of the other Warranties shall be deemed not to be given in respect of such matters; and

7.4.6 in respect of data protection matters are those contained in paragraph 5 of Part B of Schedule 2 and each of the other Warranties shall be deemed not to be given in respect of such matters.

7.5 Save in the case of fraud, the Seller (for itself and on behalf of each member of the Seller's Group) undertakes to the Buyer and each member of the Target Group and their respective directors, officers, agents, consultants and employees to waive any rights, remedies or claims whatsoever and howsoever arising which it or any member of the Seller's Group may have against such directors, officers, agents, consultants and employees of the Buyer or any member of the Target Group, including but not limited to rights, remedies or claims in respect of any misrepresentation, inaccuracy or omission in or from any information or advice supplied or given by a member of the Target Group or its directors, officers, agents, consultants or employees in connection with the entering into of the Purchase Documents.

7.6 The Seller, [ ], Arcapita Limited and, subject to Clause 7.7, each of Arcapita and RAH (in their respective capacities as a Guarantor under this Agreement), jointly and severally undertake not to, and to procure that no Authorised Persons (nor any person acting or advising with the knowledge or at the direction of such Authorised Persons), shall solicit interest from, or enter into or continue any negotiations with, any other party in relation to the sale of all or any part of the Target Group (or, any other related transaction that has the effect of the sale of whole or any part the Target Group or its business) from the date of this Agreement until Completion (or termination of this Agreement, if earlier) (the "Exclusivity Period") and that they shall promptly notify the Buyer of any approaches received during the Exclusivity Period

7.7 Subject to Clause 5.3, Arcapita and RAH's obligations under Clause 7.6 shall only subsist:

7.7.1 in the case of Arcapita, during the period from the date on which the Court Order is entered by the Bankruptcy Court as contemplated by this Agreement to and until the earlier of:

(i) the Effective Date; and

(ii) termination of this Agreement; or

7.7.2 in the case of RAH provided the ratification referred to in Clause 5.1.2(ii) has occurred, during the period on and from the Effective Date to Completion (or termination of this Agreement, if earlier).

7.8 By no later than two business days (being days the Bankruptcy Court is open) following the execution of this Agreement, the Seller or Arcapita (in its own capacity, and not as a Guarantor) shall procure that the Approval Motion is filed with the Bankruptcy Court.

8 Reorganisation Undertaking

8.1 The Seller undertakes to procure the implementation of the Reorganisation Arrangements in accordance with the terms of the Master Transfer Agreement.

8.2 Subject to Clause 8.3, the Seller shall indemnify and hold harmless the Buyer and each of its Affiliates from and against, and shall pay within 10 Business Days to the Buyer an

amount equal to, any and all Losses suffered by any member of the Buyer's Group arising directly out of the implementation of the Reorganisation Arrangements, as a result of:

8.2.1 the Reorganisation Arrangements (or any part of it) subsequently being unwound or declared void in whole or part by a court of competent jurisdiction (whether pursuant to section 238 of the Insolvency Act 1986 (or equivalent legislation in any other jurisdiction) or otherwise); or

8.2.2 any failure by any member of the Seller's Group to implement or record any part of the Reorganisation Arrangements, whether or not in accordance with applicable Law; or

8.2.3 any breach of contract or other arrangement or any failure to obtain any consent, licence or authorisation required to implement the Reorganisation Arrangements; or

8.2.4 any Reorganisation Tax Liability (as defined in Clause 8.4).

8.3 The Seller shall not be liable under Clause 8.2 in respect of:

8.3.1 any Loss to the extent that the fact, matter or circumstance giving rise to the relevant Loss both relates to title to any of the Target Companies and the Buyer has recourse against the Seller for breach of a Warranty contained in paragraph 1.2 of Part A of Schedule 2 in respect of the same Loss; or

8.3.2 any Loss to the extent that amount would not have been payable but for a failure by the Buyer to comply with its obligations under Clauses 8.6 and 8.7.

8.4 For the purpose of this Clause 8, "**Reorganisation Tax Liability**" means:

(a) any Actual Tax Liability to the extent it arises directly out of a failure to implement any aspect(s) of the proposed reorganisation of the Target Group described in the KPMG Structure Paper in accordance with that KPMG Structure Paper and the terms of the Master Transfer Agreement;

(b) any Actual Tax Liability to the extent that it was not identified by KPMG LLP in a KPMG Report because the analysis of such Tax fell outside the scope of such KPMG Report and/or because KPMG LLP was (i) provided with inaccurate or incomplete information by or on behalf of the Seller Entities (including for these purposes the Target Companies) in relation to such Tax; and (ii) was unaware that such information was inaccurate or incomplete; and

(c) any Actual Tax Liability suffered as a result of: [ ]

(d) any Actual Tax Liability or any liability of the Buyer (or any other Buyer's Group Member other than a Target Group Member) to make or suffer an actual payment of Tax or to make a payment to a Tax Authority in respect of Tax, in each case as a result of or in connection with the fact that a New Downstream Receivable has been transferred to the Buyer or any other member of the Buyer's Group for less than the outstanding principal amount owed pursuant to that New Downstream Receivable pursuant to the Master Transfer Agreement.

8.5 The Buyer acknowledges that it shall (at no material cost to it) take reasonable steps to mitigate any Loss described in Clause 8.2 above suffered by the Buyer and/or its Affiliates provided that it shall not be required to take any action that would (or could reasonably be expected) to be economically prejudicial to the Buyer and/or its Affiliates (other than to an insignificant extent).

8.6 Paragraphs 2.1.5, 2.1.6, 2.1.8 and 2.1.9 of Schedule 8 (Tax) shall apply in respect of any claim or part of a claim under Clause 8.2 in respect of any Reorganisation Tax Liability in the same way as they apply in respect of any tax liability falling within paragraph 1.1 of Schedule 8 (Tax).

8.7 For the avoidance of doubt the parties agree that neither (a) the seeking of a ruling or clearance from a Tax Authority in respect of the Reorganisation Arrangements, nor (b) the taking of any steps contemplated by the KPMG Structure Paper or the Master Transfer Agreement shall constitute a "voluntary act" for the purposes of paragraph 2.1.6 of Schedule 8. Clause 10.12 shall not apply in respect of any claim or part of a claim under Clause 8.2 in respect of any Reorganisation Tax Liability. If the Buyer or any Target Group Member becomes aware after Completion of any matter which could give rise to a liability under Clause 8.2, the Buyer shall procure that written notice of that matter (setting out reasonable particulars of the potential liability, the due date for payment and the time limits for any appeal) is given as soon as reasonably practicable to the Seller. Failure to give such written notice shall not of itself prevent the Buyer from bringing a claim in respect of such matter, but the Seller shall not be liable to the Buyer in respect of such claim to the extent that the amount of it is increased, or is not reduced, as a result of such failure. As regards any such matter either the Seller shall itself deal with the matter (provided always that the Seller shall consult with the Buyer and keep the Buyer informed on a regular basis of dealings with such matter (including by way of providing copies of all correspondence, notice or other written materials received from any Tax Authority in relation to such matter)) or, at the request in writing of the Seller (acting reasonably), the Buyer shall itself or shall procure that the Target Group Member concerned shall continue to take such action as the Seller may reasonably request to deal with the matter but subject to the Buyer and/or the relevant Target Group Member being indemnified and secured to their reasonable satisfaction by the Seller against all losses (including additional Taxation), costs, damages and expenses which may be incurred as a result.

8.8 Notwithstanding Clause 8.7 the Buyer and each Target Group Member shall be at liberty without reference to the Seller to deal with any matter which could give rise to a Reorganisation Tax Liability if the Seller delays unreasonably in itself dealing with or seeking to resolve the matter or in giving any such request as is mentioned in Clause 8.7 above, provided that the Buyer or Target Group Member concerned has notified the Seller in writing of its intention so to deal with the matter and the Seller has not responded within 20 Business Days with such details as the Buyer may reasonably require of how the Seller proposes to resolve the matter.

8.9 The Buyer shall procure that the Seller and its duly authorised agents are (on reasonable notice in writing to the Buyer) afforded such reasonable access to the books, accounts, personnel, correspondence and documentation of the Target Companies and such other reasonable assistance as may be reasonably required to enable the Seller to exercise its rights under this Clause 8.

8.10 [ ]

9 Buyer's right to terminate

9.1 The Buyer may terminate this Agreement (other than the Surviving Provisions) by written notice to the Seller at any time before Completion if any of the following circumstances arises or occurs at any time before Completion, namely:

9.1.1 [ ]

9.1.2 a breach of Clause 7.6 occurs (other than a breach of the Seller's obligations to notify the Buyer of any approaches received during the Exclusivity Period) whether or not the Bankruptcy Court has entered the Court Order and as if, notwithstanding Clause 7.7, Arcapita and RAH's respective obligations under Clause 7.6 in each case subsisted from the date of this Agreement which would or could reasonably be expected to have an adverse impact on the deliverability of the Transaction;

9.1.3 a breach of Clause 7.8 occurs or, unless the Effective Date occurs prior to 19 September 2013 or such other date that may, other than at the request, direction or on the application of the Seller, Arcapita, RAH or any of its or their Affiliates, be established by the Bankruptcy Court for the first omnibus hearing occurring after the filing of the Approval Motion (such date being the "Relevant Date"), the Bankruptcy Court has not entered the Court Order on the Relevant Date, provided that such failure to have the Court Order entered on the Relevant Date is not the result of the Buyer's request not to have its identity disclosed in the Approval Motion;

9.1.4 if the restructuring contemplated by the Implementation Memorandum, by no later than five business days (being days banks in New York are open for business (but excluding Saturdays and Sundays)) following the Effective Date, is not substantially consummated in accordance with its terms and as a result the creditworthiness of RAH is impaired materially beyond that which it would have been had the restructuring contemplated by the Implementation Memorandum been substantially consummated, and the Seller fails to offer up to the Buyer within such time, a replacement guarantor to assume the Guaranteed Obligations who is acceptable to the Buyer in its sole discretion (acting reasonably and having regard to the creditworthiness of the proposed replacement guarantor).

9.2 If this Agreement is terminated pursuant to the provisions of Clause 9.1, no party (nor any of its Affiliates) shall have any claim of any nature against the other party (or any of its Affiliates) under this Agreement (except in respect of any rights and liabilities which have accrued before termination or under any of the Surviving Provisions).

9.3 The Seller undertakes to disclose promptly to the Buyer in writing any breach, matter, event, condition, circumstance, fact or omission of which any member of the Seller Group is or becomes aware that may give rise to a right of termination under Clause 9.1.

10 Seller's Limitation of liability

Maximum Liability

10.1 Without prejudice to any further limitations set out in any other Purchase Document, the total aggregate liability of the Seller, each member of the Seller's Group and any other party to the Master Transfer Agreement (but excluding each member of the Target Group) (together the "**Seller Entities**" and each a "**Seller Entity**") in respect of all Claims shall not exceed EUR [•] (the "**Liability Cap**") provided that if all Claims once aggregated are in excess of EUR [•], the Liability Cap shall be EUR [•] plus the lesser of (i) an amount equal to the aggregate amount of all Leakage Claims, and (ii) EUR [•] and shall apply as a single aggregate cap on the overall liabilities of the Seller Entities under any Purchase Documents to which they are a party and all transactions and arrangements contemplated by such Purchase Documents.

10.2 Without prejudice to the provisions of Clause 10.1, the total liability of the Seller in respect of individual categories of Claims shall not in any event exceed: [ ]

In Clause 10.1 and this Clause 10.2, references to the total liability of the Seller in respect of any category of Claim (whether in respect of a breach of warranty, pursuant to an indemnity or otherwise) shall in each case include any additional amounts payable in connection with any relevant Claim pursuant to Clause 22 and any amounts in respect of VAT payable in connection with any relevant Claim pursuant to Clause 23.4.

Minimum Claims

10.3 The Seller shall not be liable in respect of any breach of any Business Warranty Claim (or a series of claims arising from substantially identical facts, matters or circumstances) where the liability agreed or determined (disregarding the provisions of Clauses 10.3 to 10.5 (inclusive)) in respect of any such claim or series of claims does not exceed EUR [•].

10.4 The Seller shall not be liable in respect of any Business Warranty Claim unless and until the aggregate amount that would otherwise be recoverable in respect of any Business Warranty Claim (disregarding the provisions of this Clause 10.4 and after giving due effect to Clause 10.3 above in relation to any individual claim) exceeds EUR [•].

10.5 Where the aggregate amount claimed in respect of any such Business Warranty Claim or series of Business Warranty Claims exceeds EUR [•], the Seller shall, subject to Clauses 10.1 to 10.2 (inclusive) be liable for the full amount of such Business Warranty Claim or series of Business Warranty Claims and not simply the excess.

10.6 The Seller shall not be liable pursuant to [ ] unless and until the aggregate amount that would be recoverable pursuant to [ ] exceeds EUR [•], in which case the Seller shall be liable for the full amount recoverable pursuant to [ ] and not simply the excess.

Time Limitations and Notice of Claims

10.7 No Claim shall be brought against the Seller or any Seller Entity unless:

10.7.1 the Buyer has given to the Seller, written notice of such Claim containing reasonable details of the Claim; and

10.7.2 such written notice has been given on or before:

(i) in respect of Leakage Claims, [ ] after the Completion Date;

(ii) in respect of a Business Warranty Claim, [ ] after the Completion Date;

(iii) in respect of claims for breaches of the Reorganisation Indemnity, Master Transfer Agreement or Fundamental Warranties or a Sharia Fee Historic Tax Claim, [ ] after the Completion Date;

(iv) in respect of Tax Claims (other than Sharia Fee Historic Tax Claims), within [ ] after the Completion Date;

(v) in respect of any other Claim not specified in Clauses 10.7.2(i) to 10.7.2(iv) (inclusive) other than a Claim under Clauses 14.3 to 14.4 (inclusive), 15 or 16, within [ ] after the date of this Agreement.

10.8 The Buyer shall give notice to the Seller of the facts and matters that may give rise to a Claim as soon as practicable after it becomes aware of such facts and matters. Failure to give such notice shall not of itself prevent the Buyer from bringing the relevant Claim, but

the Seller shall not be liable to the Buyer in respect of such Claim to the extent that the amount of it is increased, or is not reduced, as a result of such failure.

10.9 Any Claim (other than a Tax Claim or a claim under the Reorganisation Tax Indemnity) notified pursuant to Clause 10.7 shall (if it has not been previously satisfied, settled or withdrawn) be deemed to be irrevocably withdrawn six months after the relevant notice has been given by the Buyer, unless at such time legal proceedings in respect of the relevant Claim have been commenced by being issued and served, except where either (i) the Claim relates to a contingent liability in which case it shall be deemed to have been withdrawn if legal proceedings in respect of it have not been commenced by being issued and served within six months of it having become an actual liability; or (ii) where Clause 10.17 applies, the six month period shall commence on the date the Buyer has notified the Seller that all reasonable steps have been taken to enforce recovery against the relevant third parties, such notification having been made promptly upon the Buyer having taken all reasonable steps.

Contingent Liabilities

10.10 The Seller shall not be liable for any Claim (other than a Leakage Claim, or a Tax Claim in respect of which Schedule 8 shall apply) in respect of any liability which is contingent unless and until such contingent liability becomes an actual liability and is due and payable. For the avoidance of doubt, (i) subject to Clause 10.9, the fact that the liability may not have become an actual liability by the relevant date provided in Clause 10.7, does not exonerate the Seller in respect of any Claim properly notified before that date, and, (ii) the Purchaser has the right under Clause 10.7 to give notice of any Claim in respect of a liability which is contingent and to issue and serve proceedings in respect of it, prior to such liability becoming an actual liability.

Specific Limitations

10.11 The Seller shall not be liable for any claim for breach of any Tax Warranties or Business Warranties if and to the extent the matter is specifically provided or reserved for in the Locked Box Accounts (but for the avoidance of doubt not the Management Accounts, and to the extent the Management Accounts are otherwise fairly disclosed against the Tax Warranties and the Business Warranties (without prejudice to the test of fair disclosure generally), effective disclosure against such warranties shall require the relevant disclosure to be reasonably apparent on the face of such Management Accounts without the need for further enquiry).

10.12 Neither the Seller nor the Seller Entities shall be liable for any breaches of any Warranties (excluding the Fundamental Warranties) if and to the extent that the fact, matter, event or circumstance giving rise to such claim was fairly disclosed in the Disclosure Letter.

Matters Arising Subsequent to this Agreement

10.13 No liability (whether in contract, tort or otherwise) shall attach to the Seller or any other Seller Entity in respect of any Claim (other than a Leakage Claim, or a Tax Claim for which the provisions of Schedule 8 shall apply, or a claim under the Reorganisation Tax Indemnity) to the extent that:

10.13.1 the claim or the events giving rise to the claim would not have arisen but for any voluntary act, omission or transaction of the Buyer's Group after Completion, otherwise than in the ordinary course of business;

10.13.2 the claim occurs wholly or partly out of or the amount thereof is increased as a result of:

(i) any change in the accounting principles or practices of the Group (including the length of any accounting period for tax purposes) introduced after the date of this Agreement (where agreed by the Buyer in accordance with Schedule 4);

(ii) any increase in the rates of Taxation made after the date hereof;

(iii) any change in law or regulation or in its interpretation or administration by the English courts, by a Taxation Authority or by any other fiscal monetary or regulatory authority after the date hereof; or

10.13.3 the loss or damage giving rise to any Claim is actually recovered by the Buyer's Group under any policy of insurance or would have been so recoverable but for the Buyer's Group failing to maintain insurance in the form held by any Target Group Member as at the date of Completion (excluding for these purposes the Warranty and Indemnity Insurance).

10.14 Other than in respect of a breach of the provisions of Clauses **Error! Reference source not found.** or 14.1 to 14.5 (inclusive) where a party seeks to claim injunctive relief, the Buyer agrees that it shall not be entitled to make any Non-Tax Claim (whether for damages or otherwise) unless the Buyer has given written notice to the Seller of such Non-Tax Claim and, where capable of remedy, it is not remedied within 30 days after service of such written notice. If the breach has not been remedied within such 30 day period, the date on which notice of a Non-Tax Claim in respect of that breach shall be deemed to have been given to the Seller for the purpose of Clause 10.7 above shall be the date on which notice was given under this Clause 10.14, provided that the notice satisfied the other requirements of Clause 10.7 above.

Duty to Mitigate

10.15 The Buyer acknowledges that it shall be required to mitigate any loss or damage in respect of any Claim (other than a Leakage Claim or a Claim under the Reorganisation Indemnity (but without prejudice to the provisions of Clause 8.5) or the Tax Covenant or a Tax Secondary and Non-Covenant Claim), to the extent required by common law and nothing in the Purchase Documents shall or shall be deemed to relieve or abrogate the Buyer of any such common law duty to mitigate any such loss or damage.

Ability to make Good

10.16 The Seller shall not be liable in respect of any Claim if and to the extent that the subject of such Claim has been or is made good or is otherwise compensated for without cost to the Buyer's Group.

Third Party Recovery

10.17 If, before a Seller Entity pays an amount in discharge of any Claim (other than a Leakage Claim or a Tax Claim in respect of which the provisions of Schedule 8 shall apply), the Buyer or any Buyer Group Company recovers or is entitled to recover (whether by payment, discount, credit, relief, insurance (excluding, for the avoidance of doubt, any recovery against the Warranty and Indemnity Insurance) or otherwise) from a third party a sum which indemnifies or compensates the Buyer or a Buyer Group Company (in whole or in part) in respect of the loss or liability which is the subject matter of the Claim, the Buyer

shall procure that, before steps are taken to enforce a claim against the Seller following notification under Clause 10.7 of this Agreement, all reasonable steps are taken to enforce the recovery against the third party and any actual recovery (less any reasonable costs incurred in obtaining such recovery) shall reduce or satisfy, as the case may be, such claim to the extent of such recovery.

10.18 If a Seller Entity has accounted to the Buyer or any Buyer Group Company for an amount necessary to discharge any Claim (other than a Tax Claim in respect of which the provisions of Schedule 8 shall apply) and the Buyer or any Buyer Group Company is entitled to recover (whether by payment, discount, credit, relief, insurance (excluding, for the avoidance of doubt, any recovery against the Warranty and Indemnity Insurance) or otherwise) from a third party a sum which indemnifies or compensates the Buyer or a Buyer Group Company (in whole or in part) in respect of the loss or liability which is the subject matter of the Claim, the Buyer shall procure that all steps are taken as the Seller may reasonably require to enforce such recovery and shall, or shall procure that the relevant Buyer Group Company shall, pay to the Seller as soon as practicable after receipt an amount equal to (i) any sum recovered from the third party less any costs and expenses incurred in obtaining such recovery (including any excess under a policy of insurance) and less any Taxation attributable to the recovery after taking account of any tax relief available in respect of any matter giving rise to the Claim or if less (ii) the amount previously paid by the Seller to the Buyer less any Taxation attributable to it.

Third Party Claims

10.19 If the matter or circumstance that may give rise to a Claim (other than Leakage Claim, or a Tax Claim in respect of which the provisions of Schedule 8 shall apply) is a result of or in connection with a claim by a third party (a "**Third Party Claim**") then without prejudice to the rights of the insurers of the Buyer's Group, the Buyer shall, to the extent reasonable, consult with the Seller in relation to the conduct of the Third Party Claim and shall take reasonable account of the views of the Seller before taking any action in relation to the Third Party Claim.

No Double Recovery

10.20 The Buyer (whether directly or via a Buyer's Group Company) shall not be entitled to recover from the Seller under the Purchase Documents more than once in respect of the same Losses suffered and, without prejudice to the generality of the foregoing, the Seller shall not be liable in respect of:

10.20.1 any Claim under this Agreement if and to the extent that the Losses resulting from or connected with such Claim are or have been included in a claim under the Master Transfer Agreement which has been satisfied; or

10.20.2 a claim under the Master Transfer Agreement if and to the extent that the Losses in respect of which such claim was made are or have been included in a Claim under this Agreement which has been satisfied.

10.21 Save with respect to Clauses 5.6, 6.4, and 9.1, notwithstanding that either party becomes aware at any time:

10.21.1 that there has been a breach of any provision of this Agreement; or

10.21.2 that there may be a claim against the other party in connection with this Agreement or any other Purchase Document,

neither party shall be entitled to terminate or rescind this Agreement or treat this Agreement as terminated and, accordingly, the parties waive all and any rights to terminate or rescind this Agreement they may have in respect of any such matter (howsoever arising or deemed to arise), other than any such rights arising in respect of fraud or fraudulent misrepresentation of the other party.

Actions Brought By [ ]

10.22 No Claim may be brought by the Buyer (whether directly or via a member of the Buyer's Group) against the Seller or any of the Seller Entities as a result of a breach of the [ ] Facility or any other Finance Documents (as defined in the [ ] Facility) which occurs after the date of this Agreement that results from implementation of the Transaction in accordance with the Purchase Documents.

General

10.23 Each provision of this Clause 10 shall be read and construed without prejudice to each of the other provisions of this Clause 10.

10.24 None of the limitations contained in this Clause 10 or paragraph 2 of Schedule 8 in the case of Tax Claims or claims under the Reorganisation Tax Indemnity shall apply to any Claim which arises or is increased, or to the extent to which it arises or is increased, as the consequence of, or which is delayed as a result of, dishonesty, deliberate mis-statement, concealment or other fraud by the Seller or any member of the Seller's Group or any of their respective directors, officers, employees or agents.

10.25 For the purposes of assessing the damages for breach of any Warranty, the Seller acknowledges that any calculation of the Buyer's loss shall, along with any other such factors as are relevant, take into account the aggregate amount paid by the Buyer (i) to the Seller by way of the Equity Consideration; and (ii) in order to enable the relevant members of the Target Group to pay or satisfy (a) the Master Transfer Agreement Consideration; and (b) the Sharia Fee.

10.26 The Buyer and Seller agree that the only claims that may be brought by the Buyer under this Agreement in respect of any Tax Liability arising in respect of, by reference to or otherwise in connection with the Reorganisation Arrangements shall be pursuant to Clause 8.

10.27 [ ]

11 Buyer's Warranties and Undertakings

11.1 The Buyer hereby warrants to the Seller as at the date of this Agreement:

11.1.1 the Buyer is duly organised and validly existing under the laws of Prince Edward Island;

11.1.2 the Buyer has the requisite power and authority to enter into and perform its obligations under this Agreement and the other documents which are to be executed by the Buyer at Completion (the "**Buyer's Completion Documents**");

11.1.3 this Agreement constitutes, and the Buyer's Completion Documents will when executed by the Buyer constitute, lawful, valid and binding obligations of the Buyer in accordance with its and their respective terms;

11.1.4 the execution and delivery of, and the performance by the Buyer of its obligations under, this Agreement and the Buyer's Completion Documents will not:

(i) result in a breach of any provision of the memorandum or articles of association, by-laws or equivalent constitutional document of the Buyer;

(ii) result in a breach of, or constitute a default under, any instrument to which the Buyer is a party or by which it is bound and which is material in the context of the transactions contemplated by this Agreement;

(iii) result in a breach of any order, judgment or decree of any court or governmental agency to which the Buyer is a party or by which it is bound and which is material in the context of the transactions contemplated by this Agreement; or

(iv) save as contemplated in Clause 5, require the Buyer to obtain any consent or approval of, or give any notice to or make any registration with, any governmental or other authority which has not been obtained or made at the date hereof both on an unconditional basis and on a basis which cannot be revoked.

11.2 The Buyer shall notify the Seller as promptly as reasonably practicable in writing upon becoming aware of any fact, matter or circumstance that may cause any impediment, directly or indirectly, to the Buyer drawing down such amounts under the terms of the Buyer's funding arrangements as shall be necessary to allow the Buyer to comply with its payment obligations at Completion.

11.3 On the date of this Agreement, the Buyer shall deliver to the Seller the [ ] Letter duly executed by each of the parties thereto.

11.4 Save in the case of fraud and fraudulent misrepresentation, the Buyer (for itself and on behalf of each member of the Buyer's Group) undertakes to the Seller and each member of the Seller's Group and their respective directors, officers, agents, consultants and employees to waive any rights, remedies or claims whatsoever and howsoever arising which it or any member of the Buyer's Group may have against such directors, officers, agents, consultants and employees of the Seller or any member of the Seller's Group in connection with the entering into of the Purchase Documents provided that nothing in this Clause 11.4 shall limit the ability of the Buyer to bring any Claim or any claim against any adviser to the Target Group and/or the Seller, to the extent it has prepared a report or other documentation for the specific benefit of the Buyer or a member of the Target Group in connection with the Transaction (subject always to the terms of upon which reliance is given to the Buyer and the relevant adviser and/or the terms of engagement of such adviser).

Limitations on Buyer's liability under paragraph 5 *of* Schedule 8

11.5 The total liability of the Buyer in respect of all claims under paragraph 5 of Schedule 8 (including any additional amounts payable in connection with any such claims pursuant to Clause 22) shall not in any event exceed EUR [•].

11.6 No Claim shall be brought against the Buyer under paragraph 5 of Schedule 8 unless (i) the Seller has given to the Buyer written notice of such claim containing reasonable details of the claim; and (ii) such written notice has been given within [•] months of the Effective Date.

12 Leakage

12.1 The Seller: (i) warrants to the Buyer as at the date of this Agreement that no Leakage has occurred and no arrangement or agreement has been entered into which would result in any Leakage in the period from (but excluding) the Locked Box Date up to (and including) the date of this Agreement; (ii) undertakes that no Leakage shall occur and no arrangement or agreement will be entered into which would result in any Leakage occurring in the period from (but excluding) the date of this Agreement up to (and including) Completion.

12.2 Subject to Completion occurring and in the event of any Leakage or any breach of the provisions set out in Clause 12.1, from (but excluding) the Locked Box Date to (and including) the Completion Date, the Seller shall on demand by the Buyer pay to the Buyer (or any member of the Target Group as the Buyer directs), an amount in cash equal to the amount of such Leakage.

12.3 The Seller undertakes to the Buyer to notify the Buyer in writing as promptly as reasonably practicable after becoming actually aware of any Leakage or anything which would constitute a breach of any of the undertakings set out in this clause.

12.4 The Seller shall instruct the Seller's Solicitors on Completion to retain from the Master Transfer Consideration in the Seller's Solicitors Account an amount equal to EUR [•] for the purposes of meeting any Seller's Transaction Costs falling within paragraph (d) of the definition of Disclosed Seller's Transaction Costs. Such obligation to retain such amount (as may be reduced by any payments made pursuant to Clause 12.5) shall cease upon the date which is six weeks following the Completion Date (the "**Retention Period**").

12.5 The Buyer shall, and shall procure that each member of the Buyer's Group, shall promptly deliver to the Seller and the Seller's Solicitors during the Retention Period any invoices received by a member of the Target Group in respect of the Seller's Transaction Costs and the Seller shall, in its absolute discretion, be entitled to instruct the Seller's Solicitors to pay out of such retained amount (referred to in Clause 12.4 above) such invoice(s) in full and final discharge of such Seller's Transaction Costs in which case the Buyer acknowledges no Leakage Claim may be brought in respect of such Seller's Transaction Costs.

13 Taxation

13.1 The provisions of Schedule 8 shall come into effect on Completion.

14 Confidentiality, Announcements and Changes of Name

Announcements

14.1 With the exception of:

14.1.1 the Announcement which, may be made on the Completion Date (or on such other date as may be agreed in writing by the Buyer and the Seller); and

14.1.2 any subsequent statements made on substantially the same terms (as to form and content) as the Announcement,

no announcement or statement about this Agreement or the subject matter of, or any matter referred to in, this Agreement shall be made or issued before, on or after Completion by or on behalf of any party without the prior written approval of the Buyer and

the Seller provided that nothing shall restrict the making by any party hereto (even in the absence of agreement by the other parties whose consent is required under this Clause 14.1) of any statement which may be required by law or called for by the requirements of any court order, law, regulation or relevant regulatory body or stock exchange, but then only to the extent so required and after (if reasonably practicable to do so) the relevant party has made reasonable endeavours to discuss the nature of the requirement and the form of the required announcement or statement with the other parties whose consent is required under this Clause 14.1.

Confidentiality

14.2 The Confidentiality Agreement shall cease to have any force or effect from the date of this Agreement, but without prejudice to any prior breaches of the Confidentiality Agreement.

14.3 Subject to Clause 14.1 and Clause 14.4, from the date of this Agreement:

14.3.1 each of the parties shall treat as strictly confidential and not disclose or use any information received or obtained as a result of entering into this Agreement (or any Transaction Document) which relates to:

(i) the existence or the provisions of this Agreement or any Transaction Document; or

(ii) the negotiations relating to this Agreement or any Transaction Document;

14.3.2 the Seller shall not disclose or use any confidential information relating to the Target Group following Completion or any other confidential information relating to the business, financial or other affairs (including future plans and targets) of the Buyer's Group; and

14.3.3 the Buyer shall treat as strictly confidential and not disclose or use any confidential information relating to the business, financial or other affairs (including future plans and targets) of the Seller or the Seller's Group.

14.4 Clause 14.3 shall not prohibit disclosure or use of any information if and to the extent:

14.4.1 the disclosure or use is required by law, any regulatory body (including any Tax Authority) or any recognised stock exchange on which the shares of any party are listed (including where this is required as part of any actual or potential offering, placing and/or sale of securities of any member of the Seller's Group or the Buyer's Group);

14.4.2 the disclosure or use is required to vest the full benefit of this Agreement and/or the Master Transfer Agreement in any party, including for the purposes of satisfying the Conditions;

14.4.3 the disclosure or use is required or requested for the purpose of any judicial proceedings arising out of this Agreement or the Chapter 11 Cases or any other agreement entered into under or pursuant to this Agreement or the disclosure is reasonably required to be made to a Tax Authority in connection with the Tax affairs of the disclosing party;

14.4.4 the disclosure is made to any member of the Seller's Group provided such member keeps the same confidential;

14.4.5 the disclosure is made to professional advisers of or potential finance providers to or actual or potential investors in any member of the Seller's Group or the Buyer's Group on a need to know basis and on terms that such professional advisers or actual or potential financiers or investors undertake to comply with the provisions of Clause 14.3 in respect of such information as if they were a party to this Agreement;

14.4.6 the information is or becomes publicly available (other than by breach of the Confidentiality Agreement or of this Agreement);

14.4.7 the other parties have given prior written approval to the disclosure or use; or

14.4.8 the information is independently developed after Completion,

provided that prior to disclosure or use of any information pursuant to Clauses 14.4.1 and 14.4.3 above, the party concerned shall promptly notify (to the extent permitted by any applicable law or regulation) the other parties of such requirement with a view to providing (if reasonably practicable to do so) the other parties with the opportunity to contest such disclosure or use or otherwise to agree the timing and content of such disclosure or use.

Changes of Name

14.5 The Seller shall procure that:

14.5.1 as soon as reasonably practicable after the Completion Date and in any event within two calendar months after the Completion Date, the name of any member of the Seller's Group that consists of or includes the words "[ ]", "[ ]", "[ ]", "[ ]", "[ ]" or "[ ]" is changed to a name which does not include those words or any name which is similar to those words; and

14.5.2 as soon as reasonably practicable after the Completion Date and in any event within 10 Business Days after the Completion Date each member of the Seller's Group shall cease to use or display any trade or service name or mark, business name, logo or domain name that consists of or contains the words "[ ]", "[ ]", "[ ]", "[ ]", "[ ]" or "[ ]" or any name or mark which is confusingly similar to those words.

15 Further Assurance

The Seller undertakes to execute and deliver all such instruments and other documents as the Buyer may from time to time reasonably require in order to effect the transfer of the Shares to the Buyer and secure to the Buyer the full benefit of the rights, powers and remedies conferred upon the Buyer under the Transaction Documents, including procuring, so far as the Seller is lawfully able, the termination by a member of the Seller's Group of any agreement, arrangement or understanding entered into between a Target Group Member and a member of the Seller's Group at any time prior to the date of this Agreement (other than the Spanish Property Agreements) if such agreement, arrangement or understanding is requested to be so terminated by a Target Group Member.

16 Continuing Obligations and Assignment

16.1 Subject to the provisions of Clauses 7, 10 and 11 each of the obligations, warranties and undertakings accepted or given by the Seller or the Buyer under this Agreement or any

document referred to herein shall continue in full force and effect notwithstanding Completion taking place.

16.2 No party may assign or transfer any of its rights or obligations under this Agreement, save that:

16.2.1 the Seller may assign (in whole or in part) the benefit of this Agreement to any member of the Seller's Group provided that if such assignee ceases to be a member of the Seller's Group all benefits relating to this Agreement assigned to such assignee shall be deemed automatically by that fact to be re-assigned to the Seller immediately before such cessation;

16.2.2 RAH may assign the benefit of this Agreement to such person that is proposed to stand as guarantor in RAH's stead and who is acceptable to the Buyer in its sole discretion (acting reasonably and having regard to the creditworthiness of such proposed replacement guarantor) on or after the Effective Date;

16.2.3 notwithstanding Clause 27, the Buyer may assign (in whole or in part) the benefit of this Agreement to any other member of the Buyer's Group provided that if such assignee ceases to be a member of the Buyer's Group all benefits relating to this Agreement assigned to such assignee shall be deemed automatically by that fact to be re-assigned to the Buyer immediately before such cessation; and

16.2.4 the Buyer or any member of the Buyer's Group may charge and/or assign the benefit of this Agreement to any bank or financial institution or other person by way of security for the purposes of or in connection with the financing or refinancing (whether in whole or in part) by the Buyer of the acquisition of the Shares,

provided that, (i) in relation to Clauses 16.2.3 and 16.2.4 above and 27, the Seller shall not be under any greater obligation or liability thereby than if such assignment had never occurred and that the amount of loss or damage recoverable by the assignee shall be calculated as if that person had been originally named as the Buyer in this Agreement (and, in particular, shall not exceed the sum which would, but for such assignment, have been recoverable hereunder by the Buyer in respect of the relevant fact, matter or circumstance) and (ii) in relation to Clause 16.2.1 above, the Buyer shall not be under any greater obligation or liability thereby than if such assignment had never occurred and that the amount of loss or damage recoverable by the assignee shall be calculated as if that person had been originally named as the Seller in this Agreement (and, in particular, shall not exceed the sum which would, but for such assignment, have been recoverable hereunder by the Seller in respect of the relevant fact, matter or circumstance).

17 Access

For a period of four years following Completion, each party shall make available to the other party or such of its respective Affiliates or tax advisers and/or accountants as it shall nominate, the financial and accounting books and records of each member of the Target Group as may be in its possession and which are reasonably required by that party, its Affiliates or tax advisers and/or accountants for the purpose of dealing with its Tax and accounting affairs. The Buyer shall, upon being given reasonable notice by the Seller and subject to there being no material disruption to the business of the Target Group, procure that the books and records of the Target Group are made available to the Seller or such other member of the Seller's Group or the Seller's Solicitors for inspection (during working

hours) and, where reasonably required for the purpose of dealing with such affairs, copying (at the Seller's or such other member of the Seller's Group's expense).

18 Costs

18.1 Except where this Agreement or the Costs Undertaking provides otherwise, each party shall pay its own costs and expenses in relation to the negotiation, preparation and implementation of this Agreement (and the documents referred to herein) or otherwise incurred in relation to it with a view to the sale and purchase hereunder.

18.2 The Buyer shall bear the cost of all notarial fees and all registration, stamp and transfer taxes and duties or their equivalents in all jurisdictions where such fees, taxes and duties are payable in respect of the transfer of the Shares to the Buyer. The Buyer shall be responsible for arranging the payment of all such fees, taxes and duties, including fulfilling any administrative or reporting obligation imposed by the jurisdiction in question in connection with such payment. The Buyer shall indemnify the Seller or any other member of the Seller's Group against any Losses suffered by the Seller or member of the Seller's Group as a result of the Buyer failing to comply with its obligations under this Clause 18.2.

18.3 The parties (the Buyer for itself and as agent for and on behalf of [ ]) acknowledge and agree that this Agreement supersedes the Exclusivity Letter, and that the Exclusivity Letter shall, without prejudice to the terms of the Costs Undertaking, be deemed to have terminated on and with effect from 2 September and shall be of no further force or effect.

19 Notices

19.1 Any notice or other communication to be given under this Agreement shall be in writing, shall be deemed to have been duly served on, given to or made in relation to a party if it is left at the authorised address of that party, posted by registered post addressed to that party at such address, or sent by facsimile transmission to a machine situated at such address and shall if:

19.1.1 delivered by hand, courier or registered post, be deemed to have been received at the time of delivery; or

19.1.2 sent by facsimile transmission, be deemed to have been received upon receipt by the sender of a facsimile transmission report (or other appropriate evidence) that the facsimile has been transmitted to the addressee,

provided that where, in the case of delivery by hand, receipt occurs after 6 p.m. on a Business Day or on a day which is not a Business Day, receipt shall be deemed to occur at 9 a.m. on the next following Business Day.

19.2 For the purposes of this Clause 19, the authorised address of:

19.2.1 the Seller shall be as follows:

CRESCENT EURO INDUSTRIAL II LLC

c/o Corporation Trust Center
1209 Orange Street
Wilmington
Delaware 19801
United States

For the attention of: "The Directors" and will be copied to the Seller's Solicitors (such copy not in itself constituting valid service of such notice on the Seller), marked for the urgent attention of "Matthew Elliott/Richard Good";

19.2.2 Arcapita shall be as follows:

ARCAPITA BANK B.S.C.(c)

PO Box 1406
0000 Manama
Bahrain

For the attention of: Martin Tan and will be copied to Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193, United States (such copy not in itself constituting valid service of such notice on Arcapita), marked for the urgent attention of "Michael Rosenthal";

19.2.3 RAH shall be as follows:

RA HOLDING II LLC

c/o PIRINATE Consulting Group LLC
5 Canoe Brook Drive
Livingstone
New Jersey 07039
United States

For the attention of: Eugene Davis and will be copied to (i) Milbank, Tweed, Hadley & McCloy LLP of 10 Gresham Street London EC2V 7JD (such copy not in itself constituting valid service of such notice on RAH), marked for the urgent attention of "Mark Stamp"; and (ii) Milbank, Tweed, Hadley & McCloy LLP of 1 Chase Manhattan Plaza, New York, NY 10005, USA (such copy not in itself constituting valid service of such notice on RAH), marked for the urgent attention of "Evan Fleck";

19.2.4 the Buyer shall be:

[ ]

For the attention of: "[ ]" and will be copied to [ ] (such copy not in itself constituting valid service of such notice on the Buyer), marked for the urgent attention of "[ ]"; or

such other address as that party may notify to the others in writing from time to time in accordance with the requirements of this Clause 19. Notice of any change shall be effective 10 Business Days after it is served.

20 Entire Agreement, Inconsistency and Variation

20.1 This Agreement and the Purchase Documents contain the entire agreement and understanding of the parties and supersede all prior agreements, understandings or arrangements between the parties (both oral and written) relating to the subject matter of this Agreement and the Purchase Documents.

20.2 Each of the parties acknowledges and agrees that:

20.2.1 it does not enter into this Agreement and/or the Purchase Documents on the basis of and does not rely, and has not relied upon, any statement, representation, warranty, assurance, covenant, agreement, undertaking, indemnity, guarantee or commitment of any nature whatsoever (in any case whether oral, written, express or implied, and whether negligent or innocent) made, given or agreed to by any person (whether a party to this Agreement or not), except those expressly set out or referred to in this Agreement and/or in the Purchase Documents, and, save pursuant to Clause 10.21, the only remedy or remedies available in respect of any representation, statement, warranty, assurance, covenant, agreement, undertaking, indemnity, guarantee or commitment of any nature whatsoever made to it shall be a claim for breach of contract under this Agreement and/or the Purchase Documents;

20.2.2 no statement, undertaking, assurance, warranty, covenant or other provision set out in this Agreement that is given by any party to this Agreement to any other is given as a representation;

20.2.3 subject to Clause 10.15, any statutory or common law remedies, terms, warranties, representations or conditions that are not expressly set out or referred to in this Agreement or in the Purchase Documents and might otherwise be implied in respect of the sale and purchase of the Shares are hereby expressly excluded;

20.2.4 this Clause 20 shall not apply to any statement, representation or warranty made fraudulently or to any provision of this Agreement which was induced by, or otherwise entered into as a result of, fraud, for which the remedies shall be all those available under the law governing this Agreement; and

20.2.5 nothing in this Clause 20 shall limit the ability of the Buyer to bring any claim against a professional adviser (which for the avoidance of doubt shall not include any member of the Seller's Group) to the extent it has prepared a report or other documentation for the specific benefit of the Buyer or a member of the Target Group in connection with the transactions contemplated by this Agreement (subject always to the terms of any reliance letter entered into between the Buyer and the relevant professional adviser or the terms of engagement of such professional adviser).

20.3 If there is any inconsistency between the provisions of this Agreement and those of any other Transaction Document, then the provisions of this Agreement shall prevail.

20.4 No variation, supplement, deletion or replacement of or from this Agreement, any Purchase Document or any agreed form document or any of its or their terms shall be effective unless made in writing and signed by or on behalf of each of the Buyer, the Seller, RAH and, if at the time of the relevant variation, supplement, deletion or replacement the Effective Date has not yet occurred, Arcapita. No consent or signature shall be required from Arcapita Limited and [ ] to any such variation, supplement, deletion or replacement unless such change relates directly to the provisions of Clause **Error! Reference source not found.** or would be materially adverse to the economic, tax or legal position of Arcapita Limited or [ ], in which case any such variation, supplement, deletion or replacement shall only be binding upon them if signed in writing by Arcapita Limited and/or [ ] (whichever is applicable).

21 General Provisions

21.1 Any waiver of a breach of any of the terms of this Agreement or of any default hereunder shall not be deemed to be a waiver of any subsequent breach or default and shall in no way affect the other terms of this Agreement.

21.2 Except as otherwise expressly provided in this Agreement or expressly agreed by the parties in writing, no failure to exercise and no delay on the part of any party in exercising any right, remedy, power or privilege of that party under this Agreement and no course of dealing between the parties shall be construed or operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights and remedies provided by this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.

21.3 Other than the third parties referred to in Clauses 7.5, 10, 11.4 and 17 (which persons may directly enforce those Clauses), a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Act**") to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act. This Agreement, and each Clause referred to in this Clause 21.3, may be amended without the consent of any such third party.

21.4 This Agreement may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. The Seller, Arcapita Limited, [ ], Arcapita, RAH and the Buyer may enter into this Agreement by executing any such counterpart. Delivery of a counterpart by email attachment or facsimile shall be an effective mode of delivery.

21.5 Neither the Seller nor the Buyer shall be liable to make any payment under this Agreement or any Purchase Document nor shall either the Buyer or the Seller exercise any right of set-off or counter-claim against or otherwise withhold payment of any sums stated to be payable by the Buyer to the Seller or vice versa under this Agreement or under any of the Purchase Documents unless and until such liability has been agreed by the parties or finally adjudged payable in legal proceedings.

22 Withholdings and Tax on Payments

22.1 All sums payable under this Agreement or for breach of any of the Warranties shall be paid free and clear of all deductions or withholdings whatsoever, save only as required by law. If any deduction or withholding is required by law, the relevant party will make such deduction or withholding and account to the relevant Tax Authority for the amount so deducted or withheld, and provide the other party with evidence (to that other party's reasonable satisfaction) of such payment to the Tax Authority.

22.2 If any deduction or withholding is required by law from any payment by the Seller, Guarantor or Buyer in respect of a Seller Obligation, Buyer Obligation or the Equity Consideration (in each case, as applicable) (but excluding any interest payable on such amounts), the payer shall pay such additional amount as will, after such deduction or withholding has been made, leave the recipient with the full amount which would have been received by it had no such deduction or withholding been required to be made, provided that:

22.2.1 if either party to this Agreement shall have assigned or novated or declared a trust in respect of the benefit in whole or in part of this Agreement or shall have changed its tax residence or the permanent establishment to which the rights under this Agreement are allocated then the liability of the other party under this Clause 22.2 shall be limited to that (if any) which it would have been had no such assignment, novation, declaration of trust or change taken place; and

22.2.2 no additional amounts shall be payable under this Clause 22.2 in respect of any deduction or withholding from a payment of or in respect of the Equity Consideration except to the extent that such deduction or withholding arises solely by virtue of the Buyer or any member of the Buyer's Group's (excluding the Target Group Members) connection with the jurisdiction imposing such withholding tax.

22.3 The recipient or expected recipient of a payment by the Seller, Guarantor or Buyer in respect of a Seller Obligation, Buyer Obligation or the Equity Consideration (in each case, as applicable) shall claim from the appropriate Tax Authority any exemption, rate reduction, refund, credit or similar benefit (including pursuant to any relevant double tax treaty) to which it is entitled in respect of any deduction or withholding in respect of which a payment has been or would otherwise be required to be made pursuant to Clause 22.2 above and, for such purposes shall, within any applicable time limits, submit any claims, notices, returns or applications and send a copy to the payer.

22.4 If the recipient of a payment by the Seller, Guarantor or Buyer in respect of a Seller Obligation, Buyer Obligation or the Equity Consideration (in each case, as applicable) receives a credit for or refund of any Tax payable by it or similar benefit by reason of any deduction or withholding for or on account of Tax then it shall reimburse to the payor such part of such additional amounts paid to it pursuant to Clause 22.2 above as the recipient of the payment certifies to the payor will leave it (after such reimbursement) in no better and no worse position than it would have been if the payor had not been required to make such deduction or withholding.

22.5 Where any payment is made by the Seller, Guarantor or Buyer in respect of a Seller Obligation or Buyer Obligation (in each case, as applicable), and that sum is subject to a charge to Tax in the hands of the recipient then the sum payable shall be increased to such sum as will ensure that after payment of such Tax (including any Tax which would have been charged in the absence of any Buyer's Relief), the recipient shall be left with a sum equal to the sum that it would have received in the absence of such a charge to Tax, provided that if the recipient shall have assigned or novated or declared a trust in respect of the benefit in whole or in part of this Agreement (other than pursuant to Clause 27) or shall have changed its tax residence or the permanent establishment to which the rights under this Agreement are allocated then the liability of the payor under this Clause 22.5 shall be limited to that (if any) which it would have been had no such assignment, novation, declaration of trust or change taken place.

22.6 Clause 22.5 shall not apply to the extent that the amount of the payment or refund has already been increased to take account of the Tax that will or would be charged on receipt.

22.7 Where any additional amounts would be payable by the Buyer or the Seller pursuant to Clauses 22.2 and/or 22.5, the parties shall cooperate in good faith to determine if any reasonable steps (and for these purposes steps will be considered reasonable if they can be implemented without cost (save immaterial cost) or prejudice to either of the parties) can be taken to mitigate the relevant obligation or obligations arising under either or both of

those Clauses. In particular the parties agree that to the extent possible any such payment shall be treated as an adjustment to the Equity Consideration or the amounts that the Buyer has procured will be repaid. Where any such steps are identified, the parties shall cooperate in good faith to take such steps, or procure that such steps are taken, to so mitigate the relevant obligations.

23 VAT

23.1 The payment of:

23.1.1 the Equity Consideration; and

23.1.2 [ ],

is inclusive of any applicable VAT and section 89 of the Value Added Tax Act 1994 (and any provision which has substantially the same effect as the aforementioned section 89 in the laws of any jurisdiction outside the United Kingdom in relation to VAT) shall not apply to affect the amount of such sum payable.

23.2 If VAT is chargeable in relation to any supply for which any of the payments in Clauses 23.1.1 and 23.1.2 are consideration (the "**Supply**") and the payor or any member of a VAT group of which the payor forms part, obtains a credit or repayment in respect of that VAT from a relevant Tax Authority, then, taking full account of the extent to which the fact that the Supply is subject to VAT has improved the VAT recovery position of the payee (or any VAT group to which the payee forms part), the payor agrees to pay to the payee such amount as would be just and reasonable in order to reflect the principle that the amounts suffered by the payor in respect of such Supply should not be greater or less than the amount required to be paid under Clause 3 and the amounts received by the payee in consequence of that Supply should not be greater or less than the amount required to be paid under Clause 3, provided that under no circumstances shall the amount paid by the payor under this clause be an amount greater than the creditor repayment in respect of VAT received and retained by the payor or any member of a VAT group of which the payor forms part from the relevant Tax Authority in respect of the VAT attributable to the Supply.

23.3 If any supply for which any of the payments in Clauses 23.1.1 and 23.1.2 are consideration (in whole or in part) gives rise to a reverse charge paragraph then:

23.3.1 the consideration for such supply shall be reduced to such an amount as with the addition thereto of VAT chargeable on such supply (save to the extent that the recipient reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority) equals the original amount payable by the recipient; or

23.3.2 if the consideration does not consist of, or wholly of, money, or the consideration actually paid is less than the amount in respect of or by reference to which VAT is charged, the supplier shall pay to the recipient an amount equal to the VAT chargeable on the supply (save to the extent that the recipient reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority) no later than five Business Days before the last day (which the recipient shall notify the supplier of in writing) on which the recipient can account to the relevant tax authority for the VAT due in respect of that supply without incurring interest or penalties.

23.4 If one party (the "**Paying Party**") is required by the terms of this Agreement to reimburse the other party (the "**Payee**") for any cost, fee or expense (including, without limitation, the Disclosed Seller's Transaction Costs), the Paying Party shall also reimburse the Payee for any part of such cost, fee or expense that represents VAT, save to the extent that the Payee or an Affiliate of the Payee is entitled to credit or repayment in respect of that VAT from the relevant Tax Authority.

23.5 All sums payable under or pursuant to this Agreement other than those referred to in 23.1 above are (unless expressly stated otherwise) exclusive of any applicable VAT. Where, under or pursuant to this Agreement, any such amount other than those referred to Clause 23.1 above is regarded as consideration for a supply from one party to another party for VAT purposes and VAT is or becomes chargeable on that supply, the recipient of such supply shall, subject to the receipt of a valid VAT invoice (or other relevant documentation relating to VAT, if applicable), pay to the supplier (in addition to, and at the same time as, any other consideration for that supply) an amount equal to such VAT.

23.6 The parties hereby acknowledge and agree as at the date of this Agreement (without liability to each other) that they consider that none of the supplies for which any of the payments in Clause 23.1 are consideration are subject to any applicable VAT (including by way of reverse charge).

24 Governing Law and Jurisdiction

24.1 This Agreement and any non-contractual obligations arising out of or in connection with it (together with all documents to be entered into pursuant to it which are not expressed to be governed by another law) shall be governed by, construed and take effect in accordance with the laws of England.

24.2 The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference, including any non-contractual claim, which may arise out of or in connection with this Agreement (including without limitation claims for set-off or counterclaim) or the legal relationships established by this Agreement.

24.3 Each of the parties agrees that in the event of any action between any of the parties being commenced in respect of this Agreement or any matters arising under it, the process by which it is commenced (where consistent with the applicable court rules) may be served on them in accordance with Clause 19 but without prejudice to the provisions of Clause 25.

25 Appointment of Process Agents

25.1 The Seller, [ ] (for the period between the date of this Agreement and Completion), Arcapita and RAH each hereby irrevocably appoint Arcapita Limited of 15 Sloane Square, London SW1W 8ER as their agent to accept service of process in England and Wales in any legal action or proceedings arising out of this Agreement, service upon whom shall be deemed completed whether or not forwarded to or received by the Seller, [ ], Arcapita or RAH (as applicable).

25.2 The Seller, [ ], Arcapita and RAH agree to inform the Buyer in writing of any change of address of such process agent within 14 days of such change.

25.3 If the relevant process agent ceases to be able to act as such or to have an address in England and Wales, the Seller, [ ], Arcapita or RAH (whichever is applicable) irrevocably agrees to appoint a new process agent in England and Wales acceptable to the Buyer and

to deliver to the Buyer within 14 days a copy of a written acceptance of appointment by the process agent.

25.4 The Buyer irrevocably appoints [ ] as its agent to accept service of process in England and Wales in any legal action or proceedings arising out of this Agreement, service upon whom shall be deemed completed whether or not forwarded to or received by the Buyer.

25.5 Nothing in this Agreement shall affect the right to serve process in any other manner permitted by law or the right to bring proceedings in any other jurisdiction for the purposes of the enforcement or execution of any judgment or other settlement in any other courts.

26 Guarantee

26.1 In consideration of the Buyer entering into this Agreement, subject to Clauses 5.2 and 5.3, the Guarantor hereby unconditionally and irrevocably guarantees to the Buyer (on the terms of this Clause 26):

26.1.1 payment for any Losses suffered by the Buyer caused as a result of either (i) a Tax Claim; (ii) a Leakage Claim; (iii) a claim for a breach of the Reorganisation Indemnity; (iv) a Business Warranty Claim; (v) a breach of any of the Fundamental Warranties; or (vi) a breach by any Seller Entity of the warranties given by such relevant Seller Entity to a member of the Target Group pursuant to the terms of the Master Transfer Agreement (the "**Guaranteed Financial Obligations**"); and

26.1.2 the performance and observance by the Seller of its obligations under (i) Clause **Error! Reference source not found.** in respect of the Exclusivity Period; (ii) Part A of Schedule 4 (Pre-Completion Undertakings); (iii) Schedule 11 [ ]; (iv) Clauses 4.2 and 4.3; (v) Clause 15 (Further Assurances); and (vi) Clause 8.1 (by the Seller and by the Seller Entities under the Master Transfer Agreement) (the "**Guaranteed Performance Obligations**"),

and agrees that, if any Guaranteed Obligation is or becomes unenforceable, invalid or illegal, it will, as a separate, independent and primary obligation, indemnify the Buyer against all Losses which the Buyer or any member of the Buyer's Group suffers through or arising from any act, omission or fact which would be, or result in, a breach by the Seller or the relevant Seller Entity of a Guaranteed Obligation if that Guaranteed Obligation was not unenforceable, invalid or illegal, in all cases to the extent of any limit on the liability of the Seller or the relevant Seller Entity (as applicable) pursuant to the terms of this Agreement.

26.2 Save as provided for in Clause 26.6, if and whenever any of the Seller or any relevant Seller Entity becomes liable for any reason whatsoever under any of the Guaranteed Obligations, the Guarantor shall:

26.2.1 in the case of a Guaranteed Performance Obligation, upon demand perform (or procure performance of) and satisfy (or procure satisfaction of) the relevant Guaranteed Performance Obligations in the manner prescribed by this Agreement and so that the same benefits shall be conferred on the Buyer as it would have received if the relevant Guaranteed Performance Obligations had been performed and satisfied by the Seller; and

26.2.2 in the case of a Guaranteed Financial Obligation, within 10 Business Days, unconditionally make payment for the Loss caused as a result of the breach of the relevant Guaranteed Financial Obligation and so that the same benefits shall be

conferred on the Buyer as they would have received if the relevant Guaranteed Financial Obligation had not been breached by the Seller or relevant Seller Entity.

26.3 Subject to the limitations on the Guarantor's liability set out in Clause 26.6, the guarantee set out in this Clause 26 is to be a continuing guarantee and accordingly is to remain in force until all the Guaranteed Obligations shall have been performed, satisfied or have lapsed, or are no longer capable of being breached (as the case may be). This guarantee is in addition to and without prejudice to and not in substitution for any rights or security which the Buyer may now or hereafter have or hold for the observance of the Guaranteed Obligations.

26.4 As a separate and independent stipulation, the Guarantor agrees that a breach of any of the Guaranteed Obligations which may not be enforceable against or recoverable from the Seller or relevant Seller Entity (whichever is applicable) by reason of any disability or incapacity on or of the Seller or relevant Seller Entity (whichever is applicable) or the dissolution, amalgamation, reconstruction or reorganisation of the Seller or relevant Seller Entity, or any other fact or circumstance (other than any limitation imposed by this Agreement), shall nevertheless be enforceable against and recoverable from the Guarantor as though the same had been incurred by the Guarantor and the Guarantor were the sole or principal obligor in respect thereof and shall be performed by the Guarantor on demand or, as the case may be, paid by the Guarantor within 10 Business Days of demand.

26.5 The liability of the Guarantor under this Clause 26 shall not be affected, impaired, reduced or released by:

26.5.1 any variation of the terms of the Guaranteed Obligations;

26.5.2 any forbearance, neglect or delay in seeking a remedy for any breach of the Guaranteed Obligations or any granting of a waiver in relation to such a breach;

26.5.3 the illegality, invalidity or unenforceability of, or any defect in, any provision of the Purchase Documents;

26.5.4 any insolvency or similar proceedings; or

26.5.5 any other fact or event which in the absence of this provision would or might constitute or afford a legal or equitable discharge or release or a defence to a guarantor.

26.6 Without prejudice to the provisions of Clauses 5.2 and 5.3, the potential liability of the Guarantor pursuant to this Clause 26 (including guarantee, indemnity and contribution claims) will be:

26.6.1 limited to the amounts which the Seller or relevant Seller Entity is required to pay pursuant to the terms of this Agreement; and

26.6.2 limited in time to notice of claims being given by no later than:

(i) in the case of Arcapita, during the period on and from the date of the Court Order until the Effective Date; and

(ii) in the case of RAH, during the [•] month period commencing on the earlier of Completion and the Effective Date.

26.7 The Buyer acknowledges and agrees that, subject to the provisions of Clauses 5.2, 5.3 and 9.1.4, with effect from the Effective Date RAH or any successor entity pursuant to the terms of this Agreement shall assume any obligations and liabilities of Arcapita accrued prior to the Effective Date.

26.8 With effect from the Effective Date, Arcapita shall at such time cease to be liable in any respect under the terms of the Purchase Documents.

27 Substitute Buyer

27.1 The Buyer may at any time prior to Completion transfer its rights and past, present and future obligations pursuant to this Agreement to an entity which is wholly owned directly or indirectly by the Buyer (the "**Substitute Buyer**") provided it has delivered to the Seller:

27.1.1 drafts of deeds of accession to this Agreement and the [ ] and any other Purchase Documents to which the Buyer is a party to be entered into by the Substitute Buyer (and in the case of the deed of accession to the [ ], the Investor (as such term is defined in the [ ])) in a form reasonably acceptable to the Seller, Arcapita and RAH (together the "**Deeds of Accession**");

27.1.2 all information which the Seller, Arcapita and RAH may reasonably require to meet their respective KYC Requirements (if any) and to verify the ownership structure of the Buyer;

in which case, the Seller shall not be entitled to unreasonably withhold its consent to the accession of the Substitute Buyer to this Agreement, the [ ] and any other relevant Purchase Document subject to:

27.1.3 the delivery of duly executed copies of the Deeds of Accession by each of the parties thereto;

27.1.4 a copy of the minutes of a duly held meeting of the directors (or equivalent) of the Substitute Buyer authorising the execution by the Substitute Buyer of the Deeds of Accession;

27.1.5 the Substitute Buyer acknowledging and agreeing that (disregarding for the purposes of this clause the provisions of Clause 22) neither the Seller, nor [ ] or Arcapita Limited shall be under any greater obligation or liability as a result of the accession by the Substitute Buyer to this Agreement, the [ ] and each other relevant Purchase Document, than if such accession had never occurred and that the amount of loss or damage recoverable by the Substitute Buyer pursuant to any Purchase Document shall be calculated as if that person had been originally named as the Buyer in this Agreement (and, in particular, shall not exceed the sum which would, but for such accession, have been recoverable hereunder by the Buyer in respect of the relevant fact, matter or circumstance);

27.1.6 the Substitute Buyer shall warrant to the Seller as of the date of its assumption of the Buyer's obligations each of the warranties set out in Clause 11 (save that Clause 11.1.1 shall be deemed to be amended to reflect the laws of the actual place of incorporation of the Substitute Buyer); and

27.1.7 the Seller being satisfied that the satisfaction of the Condition set out in 5.1 within the manner and time contemplated by the provisions of this Agreement shall not be prejudiced as a result of the Substitute Buyer's accession to the Agreement.

27.2 Upon the Substitute Buyer acceding to this Agreement, the [ ] and any other relevant Purchase Documents:

27.2.1 the Seller shall release and discharge the Buyer from further performance of this Agreement and all liabilities, claims and demands howsoever arising under this Agreement, whether in contract, tort or otherwise, and accepts the liability of the Substitute Buyer under this Agreement in place of the liability of the Buyer; and

27.2.2 the Seller shall perform its obligations under this Agreement and be bound by the terms of this Agreement in every way as if the Substitute Buyer had (without prejudice to the provisions of Clause 27.1.5) at all times been a party to this Agreement in place of the Buyer and for the purposes of this Agreement and the [ ], references to the "Buyer" shall be deemed to be references to the Substitute Buyer.

This Agreement has been executed on the date first set out above.

SIGNED by

on behalf of **CRESCENT EURO INDUSTRIAL II LLC** }

SIGNED }

[ ]
by _____
name _____
title _____

SIGNED by

on behalf of **[ ] PROPERTIES S.R.O.** }

SIGNED by

on behalf of **ARCAPITA LIMITED** }

SIGNED by

on behalf of **RA HOLDCO 2 LLC** }

SIGNED by

on behalf of the **ARCAPITA BANK B.S.C.(c)** }

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