

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

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**In re** : **Chapter 11 Case**  
**ARCAPITA BANK B.S.C.(c), et. al.,** : **Case No. 12-11076 (SHL)**  
**Debtors.** : **Jointly Administered**  
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**DEBTORS' APPLICATION FOR INTERIM AND FINAL ORDERS APPROVING THE  
EMPLOYMENT AND RETENTION OF ALVAREZ & MARSAL NORTH AMERICA,  
LLC AS FINANCIAL ADVISORS TO DEBTORS AND DEBTORS IN POSSESSION  
PURSUANT TO SECTIONS 327(a) AND 328 OF THE BANKRUPTCY CODE**

TO THE HONORABLE SEAN H. LANE  
UNITED STATES BANKRUPTCY JUDGE:

Arcapita Bank B.S.C.(c) ("*Arcapita*") and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "*Debtors*" and each, a "*Debtor*") hereby submit this application (the "*Application*") for entry of an interim order, substantially in the form annexed hereto as Exhibit A (the "*Interim Order*") and a final order (the "*Final Order*") pursuant to sections 327(a) and 328 of title 11 of the United States Code (the "*Bankruptcy Code*"), rule 2014 of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*"), and rule 2014-1 of the local rules of this Court (the "*Local Rules*") authorizing the employment and retention of Alvarez & Marsal North America, LLC, together with employees of its affiliates (all of which are wholly-owned by its parent company and employees), its wholly owned subsidiaries, and independent contractors (collectively, "*A&M*") to serve as financial advisors to the Debtors, nunc pro tunc to the date of filing of the Chapter 11 Cases (as defined below). In support of the Application, the Debtors respectfully state as follows:

### **JURISDICTION**

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

2. The statutory predicates for the relief requested herein are sections 327(a), 328, 330, 331, and 1107(b) of the Bankruptcy Code, as supplemented by Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”).

### **BACKGROUND**

3. On March 19, 2012 (the “*Petition Date*”), each of the Debtors commenced cases (the “*Chapter 11 Cases*”) under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No committee has been appointed in these Chapter 11 Cases.

4. Founded in 1996, Arcapita, through its Debtor and non-Debtor subsidiaries (collectively, with Arcapita, the “*Arcapita Group*”), is a leading global manager of Shari’ah-compliant alternative investments and operates as an investment bank. Arcapita is not a domestic bank licensed in the United States, nor does it have a branch or agency in the United States as defined in section 109(b)(3)(B) of the Bankruptcy Code. Arcapita is headquartered in Bahrain and is regulated under an Islamic wholesale banking license issued by the Central Bank of Bahrain (the “*CBB*”). The Arcapita Group employs 268 people and, together with the other Debtors and their non-Debtor Subsidiaries, has offices in Atlanta, London, Hong Kong, and Singapore in addition to its Bahrain headquarters. The Arcapita Group’s principal activities include investing for its own accounts and providing investment opportunities to third-party

investors in conformity with Islamic Shari'ah rules and principles. The Arcapita Group also derives revenue from managing assets for its third party investors.

5. The Arcapita Group provides investors the opportunity to co-invest with the Arcapita Group on a deal-by-deal basis across three global asset classes: real estate, infrastructure and private equity and venture capital. Typically, the Arcapita Group, through its non-Debtor subsidiaries, takes an indirect 10-20% equity stake alongside its third-party investors in non-Debtor holding companies that directly own operating portfolio companies in the United States, Europe and the Middle East. 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.

6. The Arcapita Group has approximately \$7 billion in assets currently under management. As of the Petition Date, on a consolidated basis, the Arcapita Group owns assets valued at approximately \$3.06 billion<sup>1</sup> and has liabilities of approximately \$2.55 billion, as described in more detail in the Thompson Declaration. Approximately \$1.1 billion of the Debtors' prepetition liabilities are comprised of that certain murabaha, Shari'ah-compliant syndicated facility, issued on March 28, 2007, which matured on March 28, 2012 (the "*Syndicated Facility*").

7. Like virtually all investment banks and private equity institutions, the Arcapita Group has been adversely impacted by the global economic downturn, and has been especially hard hit by the recent debt crisis in the Eurozone. This global recession has hampered the Arcapita Group's ability to obtain liquidity from the capital markets, and has also resulted in

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

a reduction in asset values (and concomitant difficulties in monetizing certain of the Debtors' illiquid and complex investments held by the Debtors' affiliated portfolio companies). As a result thereof, the Debtors do not have the liquidity necessary to repay the Syndicated Facility, thus precipitating the filing of the Chapter 11 Cases. On a more general basis, the Debtors commenced these Chapter 11 Cases to facilitate the development and implementation of a comprehensive proposal designed to enable the Debtors to (a) restructure their debts, (b) weather the current economic conditions, and (c) realize the full value of their assets over time for the benefit of the Debtors' creditors and other stakeholders.

#### **RELIEF REQUESTED**

8. By this Application, the Debtors seek entry of the Interim and Final Orders approving the employment and retention of A&M as the Debtors' financial advisors, pursuant to sections 327(a) and 328 of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, to perform the services set forth more fully herein, nunc pro tunc to the Petition Date.

#### **RETENTION OF A&M**

9. In consideration of the size and complexity of their businesses, as well as the exigencies of the circumstances, the Debtors have determined that the services of experienced financial advisors will substantially enhance their attempts to maximize the value of their estates. A&M is well qualified to provide these services in light of their extensive knowledge and expertise with respect to chapter 11 proceedings.

10. A&M specializes in interim management, crisis management, turnaround consulting, operational due diligence, creditor advisory services, and financial and operational restructuring. A&M's debtor advisory services have included a wide range of activities targeted at stabilizing and improving a company's financial position, including developing or validating

forecasts, business plans and related assessments of a business's strategic position; monitoring and managing cash, cash flow and supplier relationships; assessing and recommending cost reduction strategies; and designing and negotiating financial restructuring packages.

A&M has been involved in numerous large chapter 11 restructurings including Lehman Brothers Holdings, Inc., et al., Washington Mutual Inc., et al., Visteon Corporation, et al. and Blockbuster Inc., et al., amongst others. For these reasons, A&M is both well qualified and uniquely suited to deal effectively and efficiently with matters that may arise in the context of the Chapter 11 Cases. Accordingly, the Debtors submit that the retention of A&M on the terms and conditions set forth herein is necessary and appropriate, is in the best interests of the Debtors' estates, creditors, and all other parties in interest, and should be granted in all respects.

#### **SCOPE OF SERVICES**

11. The Debtors' engagement letter (the "*Engagement Letter*") with A&M is annexed hereto as Exhibit B, the terms of which shall govern the Debtors' retention of A&M except as explicitly set forth herein or in any order granting this Application.

12. It is our understanding that the Debtors have chosen NM Rothschild & Sons Ltd. ("*Rothschild*") to act as its investment banker. A&M will work closely with Rothschild to prevent any duplication of efforts in the course of advising the Debtors.

13. Among other things, A&M will provide assistance to the Debtors with respect to management of the overall restructuring process, the development of ongoing business and financial plans and restructuring negotiations among the debtors, their advisors and their creditors with respect to an overall exit strategy for the Chapter 11 Cases.

14. A&M will provide such restructuring support services as A&M and the Debtors shall deem appropriate and feasible in order to manage and advise the Debtors in the course of the Chapter 11 Cases, including, but not limited to:

- (a) interfacing with the Official Committee of Unsecured Creditors (the “Creditors Committee”), Zolfo Cooper (as Cayman Provisional Liquidator), and other creditors regarding the Debtors’ operations
- (b) reviewing proposed investment activities (investment in and monetization of existing investments and new investments) and presenting the proposed actions to the Creditors Committee;
- (c) reporting/validating accounting entries of the Debtors, and cash flows between and among Debtors and non-Debtor entities;
- (d) analyzing substantive consolidation of the Debtors and the provision of testimony in support of the Debtors’ position;
- (e) assisting with the development of the Debtors’ business plan and related financial model;
- (f) assisting with the preparation of reporting packages, including
  - 13-Week Cash Flow Forecast
  - Monthly Operating Report;
- (g) assisting with the preparation of statements and schedules;
- (h) reporting to Arcapita’s Board of Directors (the “**Board**”), as desired, or directed by the Debtors’ management; and
- (i) rendering such other general business consulting or such other assistance as Debtors’ management or counsel may deem necessary consistent with the role of a financial advisor to the extent that it would not be duplicative of services provided by other professionals in this proceeding.

**A&M'S DISINTERESTEDNESS**

15. To the best of the Debtors' knowledge, information, and belief, other than as set forth in the Declaration of Lawrence R. Hirsh (the "***Hirsh Declaration***"), annexed hereto as Exhibit C, A&M: (i) has no connection with the Debtors, their creditors, other parties in interest, or the attorneys or accountants of any of the foregoing, or the United States Trustee or any person employed in the Office of the United States Trustee; (ii) does not hold any interest adverse to the Debtors' estates; and (iii) believes it is a "disinterested person" as defined by section 101(14) of the Bankruptcy Code.

16. Accordingly, the Debtors believe that A&M is "disinterested" as such term is defined in section 101(14) of the Bankruptcy Code.

17. In addition, as set forth in the Hirsh Declaration, if any new material facts or relationships are discovered or arise, A&M will provide the Court with a supplemental declaration.

**TERMS OF RETENTION**

18. Subject to approval by the Court, the Debtors propose to employ and retain A&M to serve as the Debtors' financial advisor on the terms and conditions set forth in the Engagement Letter.

19. Compensation. In accordance with the terms of the Engagement Letter, A&M will be paid by the Debtors for the services of the A&M professionals at their customary hourly billing rates which shall be subject to the following ranges:

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|------|---------------------|-----------|
| i.   | Managing Director   | \$650-850 |
| ii.  | Director            | \$450-650 |
| iii. | Analyst / Associate | \$250-450 |

Such rates and ranges shall be subject to adjustment annually at such time as A&M adjusts its rates generally.

20. A&M will be reimbursed for the reasonable out-of-pocket expenses of the A&M professionals incurred in connection with this assignment, such as travel, lodging, third party duplications, messenger and telephone charges. In addition, A&M shall be reimbursed for the reasonable fees and expenses of its counsel incurred in connection with the preparation and approval of this Application. All fees and expenses will be billed monthly and payable as and to the extent provided in any applicable order of the Bankruptcy Court governing the engagement of A&M and the payment of its fees and expenses.

21. In addition to the hourly compensation, the Debtors and A&M have agreed that A&M will be entitled to incentive compensation in the amount of 15% of the aggregate hourly fees incurred by A&M during the pendency of these Chapter 11 Cases (the “*Incentive Fee*”), which Incentive Fee shall become payable upon the satisfaction of certain conditions.

22. Given the Debtors’ relatively precipitous entry into the Chapter 11 Cases, the Debtors and A&M have not yet been able to reach an agreement on the specific terms and conditions upon which the Incentive Fee shall be payable. The Debtors and A&M will seek to reach agreement within 90 days from the date of entry of the Interim Order on the terms on which such Incentive Fee shall be payable. Payment of the Incentive Fee may depend on factors such as, but not limited to, the confirmation of a plan of reorganization. Pending the agreement of the Debtors and A&M to the terms of the Incentive Fee, the Debtors request that the Court approve the Debtors’ employment and retention of A&M on an interim basis, which approval



shall be subject to the entry of the Final Order approving the Debtors' employment and retention of A&M, including the terms and conditions of the Incentive Fee.

23. Indemnification. As a material part of the consideration for which the A&M professionals have agreed to provide the services described herein, the Debtors have agreed to the indemnification provisions in paragraph 11 of the Engagement Letter.

Notwithstanding the foregoing, the Debtors and A&M have agreed to modify such provisions as follows, during the pendency of these Chapter 11 Cases:

All requests of A&M for payment of indemnity pursuant to the Engagement Letter shall be made by means of an application (interim or final as the case may be) and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Letter Agreement and is reasonable based upon the circumstances of the litigation or settlement in respect of which indemnity is sought; *provided, however*, that in no event shall A&M be indemnified in the case of its own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct. In addition, in no event shall A&M be indemnified if the Debtors or a representative of the estates, asserts a claim for, and a court determines by final order that such claim arose out of, A&M's own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence, or willful misconduct.

#### **FEES**

24. The Debtors understand that A&M intends to apply to the Court for allowance of compensation and reimbursement of expenses (including certain reasonable attorneys' fees and expenses, if any) for its restructuring advisory services in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, corresponding Local Rules, orders of this Court and guidelines established by the United States Trustee.

25. Given the numerous issues that A&M may be required to address in the performance of their services, A&M's commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for such services for engagements of this nature in an out-of-court context, as well as in chapter 11, the Debtors submit that the fee arrangements set forth herein are reasonable under the standards set forth in section 328(a) of the Bankruptcy Code.

26. To the extent the terms and conditions of the Incentive Fee is subject to further agreement of the Debtors and A&M, the Debtors and A&M will submit to the Court additional materials supporting the reasonableness of the Incentive Fee prior to the hearing to consider the final approval of the Debtors' employment and retention of A&M.

#### **APPLICABLE AUTHORITY**

27. The Debtors submit that the retention of A&M under the terms described herein is appropriate under sections 327(a), 328, and 1107(b) of the Bankruptcy Code. Section 327(a) of the Bankruptcy Code empowers the trustee, with the Court's approval, to employ professionals "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." 11 U.S.C. § 327(a). Section 101(14) of the Bankruptcy Code defines a "disinterested person" as a person that:

- (a) is not a creditor, an equity security holder, or an insider;
- (b) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and
- (c) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect

relationship to, connection with, or interest in, the debtor, or for any other reason.

11 U.S.C. § 101(14).

28. Further, section 1107(b) of the Bankruptcy Code provides that “a person is not disqualified for employment under section 327 of this title by a debtor in possession solely because of such person’s employment by or representation of the debtor before the commencement of the case.” 11 U.S.C. § 1107(b). Any prepetition relationship between A&M and the Debtors is therefore not an impediment to A&M’s retention as Debtors’ postpetition financial advisor.

29. Section 328(a) of the Bankruptcy Code authorizes the employment of a professional person “on any reasonable terms and conditions of employment, including on a retainer . . .” 11 U.S.C. § 328(a). Debtors submit that the terms and conditions of A&M’s retention as described herein, including the proposed compensation and indemnification terms, are reasonable and in keeping with the terms and conditions typical for engagements of this size and character. Since Debtors will require substantial assistance with the reorganization process, it is reasonable for Debtors to seek to employ and retain A&M to serve as its financial advisor on the terms and conditions set forth herein.

### **NOTICE**

30. No trustee, examiner, or official committee of unsecured creditors has been appointed in the Chapter 11 Cases. The Debtors have provided notice of filing of the Motion by electronic mail, facsimile and/or overnight mail to: (i) the Office of the United States Trustee for the Southern District of New York (Attn: Richard Morrissey, Esq.), (ii) Kasowitz Benson Torres & Friedman LLP, 1633 Broadway, New York, New York 10019 (Attn: David Friedman, Esq. and David Mark, Esq.) as attorneys for Euroville, S.a.r.l., (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Stephen Karotkin, Esq.), as

attorneys for Midtown Acquisitions, LLC, 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](http://www.gcginc.com/cases/arcapita).

**NO PRIOR REQUEST**

31. No prior request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE, Debtors respectfully request that the Court enter an order granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: New York, New York  
April 2, 2012

Respectfully submitted,

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

PROPOSED ATTORNEYS FOR THE DEBTORS  
AND DEBTORS IN POSSESSION

Hearing Time: April 17, 2012 at 11:00 a.m. (Eastern Time)

Objection Deadline: April 10, 2012 at 12:00 p.m. (Eastern Time)

**GIBSON, DUNN & CRUTCHER LLP**

Michael A. Rosenthal (MR-7006)

Janet M. Weiss (JW-5460)

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Proposed Attorneys for the Debtors  
and Debtors in Possession

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

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<b>IN RE:</b>	:	<b>Chapter 11</b>
	:	
<b>ARCAPITA BANK B.S.C.(c), et al.,</b>	:	<b>Case No. 12-11076 (SHL)</b>
	:	
<b>Debtors.</b>	:	<b>Jointly Administered</b>
	:	
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**NOTICE OF HEARING ON DEBTORS' APPLICATION FOR INTERIM  
AND FINAL ORDERS APPROVING THE EMPLOYMENT AND RETENTION  
OF ALVAREZ & MARSAL NORTH AMERICA, LLC AS FINANCIAL ADVISORS  
TO DEBTORS AND DEBTORS IN POSSESSION PURSUANT TO SECTIONS  
327(a) AND 328 OF THE BANKRUPTCY CODE**

PLEASE TAKE NOTICE that a hearing on the annexed Application, dated April 2, 2012 (the "**Application**") of Arcapita Bank B.S.C.(c) and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "**Debtors**") will be held before the Honorable Sean H. Lane, United States Bankruptcy Judge, in Room 701 of the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"), One Bowling Green, New York, New York, 10004, on **April 17, 2012 at 11:00 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Application (the “*Objections*”) shall be filed electronically with the Court on the docket of *In re Arcapita Bank B.S.C.(c), et al.*, Ch. 11 Case No. 12-11076 (SHL) (the “*Docket*”), pursuant to the Case Management Procedures approved by this Court<sup>1</sup> and the Court's General Order M-399 (available at <http://nysb.uscourts.gov/orders/orders2.html>), by registered users of the Court's case filing system and by all other parties in interest on a 3.5 inch disk, preferably in portable document format (“*PDF*”), Microsoft Word, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 on (i) proposed counsel for the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York, 10166 (Attn: Michael A. Rosenthal, Esq., Janet M. Weiss, Esq. and Matthew K. Kelsey, Esq.); (ii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21<sup>st</sup> Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); (iii) Kasowitz Benson Torres & Friedman LLP, 1633 Broadway, New York, New York 10019 (Attn: David Friedman, Esq. and David Mark, Esq.) as attorneys for Euroville, S.a.r.l.; and (iv) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Stephen Karotkin, Esq.), as attorneys for Midtown Acquisitions, LLC so as to be received no later than **April 10, 2012 at 12:00 p.m. (Eastern Time)** (the “*Objection Deadline*”).

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the Application, the Debtors may, on or after the Objection Deadline,

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<sup>1</sup> See Order (A) Waiving the Requirement That Each Debtor File a List of Creditors and Equity Security Holders and Authorizing Maintenance of Consolidated List of Creditors in Lieu of a Matrix; (B) Authorizing Filing of a Consolidated List of Top 50 Unsecured Creditors; and (C) Approving Case Management Procedures [Docket No. 21].

submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Application, which order may be entered with no further notice or opportunity to be heard.

Dated: New York, New York  
April 2, 2012

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)

Janet M. Weiss (JW-5460)

Matthew K. Kelsey (MK-3137)

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200 Park Avenue

New York, New York 10166-0193

Telephone: (212) 351-4000

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



**Exhibit A**

**Interim Order**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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

**INTERIM ORDER AUTHORIZING DEBTORS TO  
EMPLOY AND RETAIN ALVAREZ & MARSAL NORTH AMERICA, LLC  
AS FINANCIAL ADVISORS TO DEBTORS AND DEBTORS IN POSSESSION  
PURSUANT TO SECTIONS 327(a) AND 328 OF THE BANKRUPTCY CODE**

Upon the application (the “*Application*”) of the debtors in possession in the above-captioned case (collectively, the “*Debtors*” and each, a “*Debtor*”) for interim and final orders pursuant to sections 327(a) and 328 of title 11 of the United States Code (the “*Bankruptcy Code*”), authorizing the Debtors to employ and retain Alvarez & Marsal North America, LLC, together with employees of its affiliates (all of which are wholly-owned by its parent company and employees), its wholly owned subsidiaries, and independent contractors (collectively, “*A&M*”) as financial advisors, nunc pro tunc to the date of filing of these cases (the “*Petition Date*”) on the terms set forth in the engagement letter (the “*Engagement Letter*”) annexed to the Application as Exhibit B; and upon the Declaration of Lawrence R. Hirsh in support of the Application annexed thereto as Exhibit C; and due and adequate notice of the Application having been given; and the Court being satisfied that A&M is a “disinterested person” as such term is defined under section 101(14) of the Bankruptcy Code; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Application is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. The Application is granted to the extent set forth herein on an interim basis.
2. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.
3. Pursuant to sections 327(a) and 328 of the Bankruptcy Code, the Debtors are hereby authorized to retain A&M as financial advisors to the Debtors, nunc pro tunc to the Petition Date on the terms set forth in the Engagement Letter.
4. The terms of the Engagement Letter, including without limitation, the compensation provisions and the indemnification provisions, as modified by the Application, are reasonable terms and conditions of employment and are hereby approved; provided that, approval of the Incentive Fee shall be subject to entry of a Final Order.
5. To the extent there is inconsistency among the terms of the Engagement Letter, the Application, and this Interim Order, the terms of this Interim Order shall govern.
6. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Interim Order.
7. The final hearing on the relief requested in the Application shall be on \_\_\_\_\_, 2012 at \_\_\_\_\_ (prevailing Eastern Time). The deadline by which objections to entry of the Final Order must be filed is \_\_\_\_\_, 2012 at \_\_\_\_\_ (prevailing Eastern Time) and served upon (i) proposed counsel for the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York, 10166 (Attn: Michael A. Rosenthal, Esq., Janet M. Weiss, Esq. and Matthew K. Kelsey, Esq.); (ii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn:

Richard Morrissey, Esq.); (iii) Kasowitz Benson Torres & Friedman LLP, 1633 Broadway, New York, New York 10019 (Attn: David Friedman, Esq. and David Mark, Esq.) as attorneys for Euroville, S.a.r.l.; and (iv) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Stephen Karotkin, Esq.), as attorneys for Midtown Acquisitions, LLC.

Dated: New York, New York  
\_\_\_\_\_, 20\_\_\_\_

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UNITED STATES BANKRUPTCY JUDGE

**Exhibit B**

**Copy of Executed Engagement Letter**



March 24, 2012

Mohammed Chowdhury  
Executive Director  
Arcapita Bank B.S.C. (c)  
PO Box 1406  
Arcapita Building  
Bahrain Bay  
Manama, Bahrain

Dear Mr. Chowdhury:

This letter confirms and sets forth the terms and conditions of the engagement between Alvarez & Marsal North America, LLC (“A&M”) and Arcapita Bank B.S.C.(c) and its subsidiaries Arcapita Investment Holdings Limited, Arcapita LT Holdings Limited, WindTurbines Holdings Limited, AEID II Holdings Limited and RailInvest Holdings Limited that have filed Chapter 11 in the United States Bankruptcy Court for the Southern District of New York (“Chapter 11”) (jointly and severally, the “Company”, “Arcapita” or the “Debtors”), including the scope of the services to be performed and the basis of compensation for those services. Upon execution of this letter by each of the parties below and receipt of the retainer described below, this letter will constitute an agreement between the Company and A&M (the “Agreement”).

1. Description of Services

- (a) A&M shall provide consulting services to the Company at the direction of the Company’s Executive Directors (the “Responsible Officer(s)”) in connection with their efforts related to the Company’s chapter 11 cases. It is anticipated that A&M’s activities shall include the following:
- (i) interface with the Unsecured Creditors Committee, Zolfo Cooper (as Cayman Provisional Liquidator), and other creditors regarding the Company’s operations
  - (ii) review proposed investment activities (investment in and monetization of existing investments and new investments) and present the proposed actions to the Unsecured Creditors Committee
  - (iii) report/validate accounting entries of the Debtors, and cash flows between and among Debtors and non-Debtor entities
  - (iv) analyze substantive consolidation of the Debtors and the provision of testimony in support of the Company’s position
  - (v) assist with the development of the Arcapita business plan and related financial model

- (vi) assist with the preparation of reporting packages, including
  - 13-Week Cash Flow Forecast
  - Monthly Operating Report
- (vii) assist with the preparation of statements and schedules
- (viii) report to the Board of Directors (the “Board”), as desired, or directed by the Responsible Officer(s); and
- (ix) other activities as are approved by you, the Responsible Officers or the Board and agreed to by A&M.

A&M understands that the Company has chosen NM Rothschild & Sons Ltd. (“Rothschild”) to act as its investment banker. A&M will work closely with Rothschild to prevent any duplication of efforts in the course of advising the Company.

In rendering its services to the Company, A&M will report directly to the Responsible Officer(s) and will make recommendations to and consult with the Responsible Officers and other senior officers as the Board or Responsible Officer(s) direct.

- (b) Subject to the terms of this Agreement, including Section 9 hereof, in connection with the services to be provided hereunder, from time to time A&M may utilize the services and employees of its affiliates (“A&M Affiliates”). The A&M Affiliates are wholly owned by A&M’s parent company.

A&M personnel providing services to the Company may also work with other A&M clients in conjunction with unrelated matters.

## 2. Information Provided by the Company and Forward Looking Statements

The Company shall use all reasonable efforts to: (i) provide A&M with access to management and other representatives of the Company; and (ii) to furnish all data, material, and other information concerning the business, assets, liabilities, operations, cash flows, properties, financial condition and prospects of the Company that A&M reasonably request in connection with the services to be provided to the Company. A&M shall rely, without further independent verification, on the accuracy and completeness of all publicly available information and information that is furnished by or on behalf of the Company and otherwise reviewed by A&M in connection with the services performed for the Company. The Company acknowledges and agrees that A&M is not responsible for the accuracy or completeness of such information and shall not be responsible for any inaccuracies or omissions therein. A&M is under no obligation to update data submitted to it or to review any other areas unless specifically requested by the Board to do so.

You understand that the services to be rendered by A&M may include the preparation of projections and other forward-looking statements, and numerous factors can affect the actual results of the Company's operations, which may materially and adversely differ from those projections. In addition, A&M will be relying on information provided by the Company in the preparation of those projections and other forward-looking statements.

3. Limitation of Duties

A&M makes no representation or guarantee that, inter alia, (i) an appropriate restructuring proposal or strategic alternative can be formulated for the Company (ii) any restructuring proposal or strategic alternative presented to the Company's management or the Board or Responsible Officers will be more successful than all other possible restructuring proposals or strategic alternatives, (iii) restructuring is the best course of action for the Company or (iv) if formulated, that any proposed restructuring plan or strategic alternative will be accepted by any of the Company's creditors, shareholders and other constituents. Further, A&M does not assume any responsibility for the Company's decision to pursue, or not pursue any business strategy, or to effect, or not to effect any transaction. A&M shall be responsible for assistance with the implementation only of the restructuring proposal or strategic alternative approved by the Board or Responsible Officers and only to the extent and in the manner authorized by and directed by the Board or Responsible Officers and agreed to by A&M.

4. Compensation

(a) A&M will receive fees based on the following hourly rates:

Managing Directors	\$650-850
Directors	\$450-650
Analysts/Associates	\$250-450

Such rates shall be subject to adjustment annually at such time as A&M adjusts its rates generally.

(b) In addition, A&M will be reimbursed for its reasonable out-of-pocket expenses incurred in connection with this assignment, such as travel, lodging, duplicating, messenger and telephone charges. All fees and expenses will be billed monthly and payable as and to the extent provided in any applicable order of the Bankruptcy Court governing the engagement of A&M and the payment of its fees and expenses.

(c) In addition to the hourly compensation, A&M will be entitled to incentive compensation in the amount of 15% of the aggregate hourly fees incurred by A&M during the pendency of the Company's Chapter 11 bankruptcy proceeding (the "Incentive Fee"). A&M and the Company will seek to reach agreement within 90 days from the date hereof on the terms on which such Incentive Fee shall be payable.



5. Term

- (a) This Agreement will apply from the commencement of the services referred to in Section 1 and may be terminated with immediate effect by either party without cause by thirty (30) days' prior written notice to the other party.
- (b) A&M normally does not withdraw from an engagement unless the Company misrepresents or fails to disclose material facts within a reasonable time period, fails to pay fees or expenses, or makes it unethical or unreasonably difficult for A&M to continue performance of the engagement, or other just cause exists..
- (c) On termination of the Agreement, any fees and expenses due to A&M shall be remitted promptly (including fees and expenses that accrued prior to but are invoiced subsequent to such termination), subject to the terms of any applicable order of the Bankruptcy Court governing the engagement of A&M and the payment of its fees and expenses.
- (d) If the Company terminates this Agreement without "Cause" or if A&M terminates this Agreement for "Good Reason", A&M shall also be entitled to receive the Incentive Fee upon the occurrence of the event or events subsequently agreed upon per Section 4 (c) if such event or events occurs within 6 months of the termination. "Cause" shall mean gross negligence, willful default or fraud by A&M; "Good Reason" shall mean the Company's misrepresentation of or failure to disclose material facts, failure to pay fees or expenses when due (or circumstances indicating to A&M that fees or expenses will not be paid when due), subject to any applicable restrictions or limitations imposed by the Company's chapter 11 cases, or the occurrence of circumstances such that it is unethical or unreasonably difficult for A&M to continue performance of the engagement, or other just cause.
- (e) On termination of the Agreement, A&M shall (and shall cause the A&M Affiliates to) return or destroy (to the extent practicable for electronic copies) all copies of any documentary nonpublic information provided to it by or on behalf of the Company in accordance with Section 9, hereof. Notwithstanding anything to the contrary, A&M may retain, subject to its confidentiality obligations which confidentiality obligations will be extended for such period of time as A&M retains any of the Company's information and documents, one copy of the Company's information and documents (including, without limitation, documentary nonpublic information provided to A&M by or on behalf of the Company) for internal record keeping purposes, but only for that period of time necessary to evidence compliance with this Agreement or other legal requirements.
- (f) The provisions of this Agreement that give the parties rights or obligations beyond its termination shall survive and continue to bind the parties.

6. Relationship of the Parties

The parties intend that an independent contractor relationship will be created by this engagement letter. Neither A&M nor any of its personnel or agents is to be considered an employee or agent of the Company and the personnel and agents of A&M are not entitled to any of the benefits that the Company provides for the Company employees. The Company acknowledges and agrees that A&M's engagement shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of the AICPA, SEC or other state or national professional or regulatory body.

7. No Third Party Beneficiary

The Company acknowledges that all advice (written or oral) provided by A&M to the Company in connection with this engagement is intended solely for the benefit and use of the Company (limited to its Board and management) in considering the matters to which this engagement relates. The Company agrees that no such advice shall be used for any other purpose or reproduced, disseminated, quoted or referred to at any time in any manner or for any purpose other than accomplishing the tasks referred to herein without A&M's prior approval (which shall not be unreasonably withheld), except as required by law.

8. Conflicts

A&M is not currently aware of any relationship that would create a conflict of interest with the Company or those parties-in-interest of which you have made us aware. Because A&M and its affiliates and subsidiaries comprise a consulting firm (the "Firm") that serves clients on a global basis in numerous cases, both in and out of court, it is possible that the Firm may have rendered or will render services to or have business associations with other entities or people which had or have or may have relationships with the Company, including creditors of the Company. The Firm will not be prevented or restricted by virtue of providing the services under this Agreement from providing services to other entities or individuals, including entities or individuals whose interests may be in competition or conflict with the Company's, provided the Firm makes appropriate arrangements to ensure that the confidentiality of information is maintained and provided further that such provision of services shall not relate to the Company's chapter 11 cases except for the interim and crisis management that an affiliates of A&M provides to Church Street Health Management, LLC and certain of its affiliates as debtors and debtors in possession as described in A&M's retention papers and except as otherwise permitted by the United States Bankruptcy Court for the Southern District of New York. In addition, A&M has made and will continue to make additional relationship disclosures in its retention application filed in the Unites States Bankruptcy Court for the Southern District of New York for this engagement. Each of the Companies acknowledges and agrees that the services being provided hereunder are being provided on behalf of each of them and each of them hereby waives any and all conflicts of interest that may arise on account of the services being provided on behalf of any other

Company. Each Company represents that it has taken all corporate action necessary and is authorized to waive such potential conflicts of interest.

9. Confidentiality

During the term of this Agreement and for 24 months after the expiration or any termination of this Agreement, A&M agrees to keep confidential, and not to use or disclose for any purpose, other than as requested by the Company or its legal counsel or as reasonably required by the terms of and in the performance of the obligations under this Agreement, all non-public information provided to it by or on behalf of the Company. A&M may disclose such information as required by law or regulation, pursuant to a subpoena or order of a court of competent jurisdiction; provided, that A&M shall (and shall cause the A&M Affiliates to), to the extent permitted by law, give the Company prior written notice of such order or request for disclosure so that the Company may seek, at the Company's sole expense, an appropriate protective order or otherwise seek to protect the confidentiality of such information, which efforts, at the Company's request, A&M will reasonably cooperate with.

Notwithstanding any provision herein to the contrary, A&M may disclose non-public information to the A&M Affiliates whenever A&M reasonably determines that such disclosure is necessary to provide the services contemplated hereunder; provided, that the A&M Affiliates are obligated to comply with the restrictions with respect to such information set forth herein. A&M shall be responsible for any breach of this Agreement by any of the A&M Affiliates and A&M agrees, at its sole expense, to take all reasonable measures (including but not limited to court proceedings) to restrain the A&M Affiliates from prohibited or unauthorized disclosure or use of any non-public information.

At the expiration, termination or completion of this Agreement, A&M will (and shall cause the A&M Affiliates to) return to the Company or destroy (to the extent practicable for electronic copies) all copies of any documentary non-public information provided to it by or on behalf of the Company. Any documentary non-public information retained by A&M or the A&M Affiliates after the expiration, termination or completion of this Agreement shall remain subject to this Section 9. Notwithstanding anything to the contrary, A&M may retain, subject to its confidentiality obligations which confidentiality obligations will be extended for such period of time as A&M retains any of the Company's information and documents, one copy of the Company's information and documents (including, without limitation, documentary nonpublic information provided to A&M by or on behalf of the Company) for internal record keeping purposes, but only for that period of time necessary to evidence compliance with this Agreement or other legal requirements.

10. Non-Solicitation

The Company agrees not to, on behalf of itself, its subsidiaries and affiliates and any person which may acquire all or substantially all of its assets, for a period of one (1) year subsequent to the termination of this engagement solicit for purposes of employment, recruit, hire or otherwise enter into any contract of employment with any employee of

A&M or any employee of the A&M Affiliates who worked on the engagement while employed by A&M or the A&M Affiliates (“Solicited Person”), without A&M’s prior written consent. Notwithstanding the first sentence of this Section 10, the Company and its subsidiaries and affiliates and any person which may acquire all or substantially all of its assets shall not be precluded from soliciting or hiring any Solicited Person who has been terminated by A&M or any of the A&M Affiliates prior to the commencement of employment discussions between the Company (including its subsidiaries and affiliates) and the Solicited Person. Should the Company or any of its subsidiaries or affiliates or any person who acquires all or substantially all of its assets extend an offer of employment to or otherwise engage any Solicited Person and should such offer be accepted, A&M shall be entitled to a fee from the party extending such offer equal to the Solicited Person’s hourly client billing rate at the time of the offer multiplied by 4,000 hours for a Managing Director, 3,000 hours for a Senior Director and 2,000 hours for any other A&M employee. The Company acknowledges and agrees that this fee fairly represents the loss that A&M will suffer if the Company breaches this provision. The fee shall be payable at the time of the Solicited Person’s acceptance of employment or engagement.

11. Indemnification and Limitations on Liability

The attached indemnification and limitation on liability agreement is incorporated herein by reference and shall be executed upon the acceptance of this Agreement. Termination of this engagement shall not affect these indemnification and limitation on liability provisions, which shall remain in full force and effect.

12. Miscellaneous

This Agreement (together with the attached indemnity provisions), including, without limitation, the construction and interpretation of thereof and all claims, controversies and disputes arising under or relating thereto, shall be governed and construed in accordance with the laws of the State of New York, without regard to principles of conflict of law that would defer to the laws of another jurisdiction. The Company and A&M agree to waive trial by jury in any action, proceeding or counterclaim brought by or on behalf of the parties hereto with respect to any matter relating to or arising out of the engagement or the performance or non-performance of A&M hereunder. The Company and A&M agree, to the extent permitted by applicable law, that the United States Bankruptcy Court for the Southern District of New York shall have exclusive jurisdiction over any litigation arising out of this Agreement; that they submit to the personal jurisdiction of the United States Bankruptcy Court for the Southern District of New York; and that they waive any and all personal rights under the law of any jurisdiction to object on any basis (including, without limitation, inconvenience of forum) to jurisdiction or venue within the State of New York for any litigation arising in connection with this Agreement.

This Agreement shall be binding upon A&M and the Company, their respective heirs, successors, and assignees, and any heir, successor, or assignee of a substantial portion of A&M’s or the Company’s respective businesses and/or assets, including any Chapter 11 Trustee. This Agreement incorporates the entire understanding of the parties with respect

to the subject matter hereof and may not be amended or modified except in writing executed by the Company and A&M. Notwithstanding anything herein to the contrary, A&M may reference or list the Company's name and/or a general description of the services in A&M's marketing materials, including, without limitation, on A&M's website.

If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,

Alvarez & Marsal North America, LLC

By: \_\_\_\_\_  
Lawrence Hirsh  
Managing Director

Accepted and agreed:

Arcapita Bank B.S.C.(c)

By: \_\_\_\_\_  
Mohammed Chowdhury  
Executive Director

## **INDEMNIFICATION AND LIMITATION ON LIABILITY AGREEMENT**

This indemnification and limitation on liability agreement (the “Indemnification Agreement”) is made part of an agreement, dated March 23, 2012 (which together with any renewals, modifications or extensions thereof, is herein referred to as the “Agreement”) by and between Alvarez & Marsal North America, LLC (“A&M”) and Arcapita Bank B.S.C.(c) (the “Company”) and its subsidiaries and affiliates, for services to be rendered to the Company by A&M.

A. The Company agrees to indemnify and hold harmless each of A&M, its affiliates and their respective shareholders, members, managers, employees, agents, representatives and subcontractors (each, an “Indemnified Party” and collectively, the “Indemnified Parties”) against any and all losses, claims, damages, liabilities, penalties, obligations and reasonable and documented out-of-pocket expenses, including reasonable and documented out-of-pocket legal and other costs incurred in connection with investigating, preparing or defending any action or claim, whether or not in connection with litigation in which any Indemnified Party is a party as and when incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Indemnified Parties’ acceptance of or the performance or nonperformance of their obligations under the Agreement; provided, however, that no such indemnification shall be required to be paid to an Indemnified Party with respect to any and all losses, claims, damages, liabilities, penalties, obligations or expenses to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted from such Indemnified Party’s gross negligence, bad faith or willful misconduct, and to the extent the Company has already paid any amounts hereunder with respect to indemnifying or reimbursing such Indemnified Party for such a non-indemnifiable claim, such Indemnified Party shall reimburse the Company for such amounts promptly after such final determination. In no event shall the Company or any Indemnified Party be responsible for any special, consequential, incidental or exemplary damages incurred by the other; provided that nothing in this sentence shall be deemed to (i) relieve the Company of any obligation it may otherwise have hereunder to indemnify an Indemnified Party for any such damages asserted by an unaffiliated third party or (ii) relieve any Indemnified Party of any liability it may otherwise have hereunder to the Company for any such damages which the Company becomes legally obligated to pay to an unaffiliated third party.

The Company further agrees that it will not, without the prior consent of an Indemnified Party (which consent will not be unreasonably withheld), settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which such Indemnified Party seeks indemnification hereunder (whether or not such Indemnified Party is an actual party to such claim, action, suit or proceedings) unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liabilities arising out of such claim, action, suit or proceeding. Provided that the Company is in compliance with the provisions of this Indemnification Agreement, the Company will not be liable to any Indemnified Party for any settlement, compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which indemnification may be sought hereunder effected by any Indemnified Party without the prior consent of the Company (which consent will not be unreasonably withheld).

B. These indemnification provisions shall be in addition to any liability which the Company may otherwise have to the Indemnified Parties. In the event that, at any time whether before or after termination of the engagement or the Agreement, as a result of or in connection with the Agreement or A&M's and its personnel's role under the Agreement, A&M or any Indemnified Party is required to produce any of its personnel (including former employees) for examination, deposition or other written, recorded or oral presentation, or A&M or any of its personnel (including former employees) or any other Indemnified Party is required to produce or otherwise review, compile, submit, duplicate, search for, organize or report on any material within such Indemnified Party's possession or control pursuant to a subpoena or other legal (including administrative) process, the Company will reimburse the Indemnified Party for its reasonable out of pocket expenses, including the reasonable fees and expenses of its counsel. The Company will not, however, be required to pay any such indemnification and reimbursement to an Indemnified Party with respect to such out of pocket expenses (including all fees and expenses incurred by an Indemnified Party) to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted from such Indemnified Party's gross negligence, bad faith or willful misconduct, and to the extent the Company has already paid any amounts hereunder with respect to indemnifying or reimbursing such Indemnified Party for such a non-indemnifiable claim, such Indemnified Party shall reimburse the Company for such amounts promptly after such final determination.

C. If any claim, action, proceeding or investigation is commenced to which any Indemnified Party proposes to demand indemnification hereunder, including any pending or threatened claim or demand by a third party that the Indemnified Party has determined has given or could reasonably give rise to a right of indemnification under this Indemnification Agreement, such Indemnified Party will promptly notify the Company in writing of such claim, action, proceeding or investigation, describing in reasonable detail, to the extent known, the facts and circumstances with respect to the subject matter of such claim, action, proceeding or investigation; provided, however, that any failure by such Indemnified Party to notify the Company will not relieve the Company from its obligations hereunder, except to the extent that such failure shall have actually prejudiced the defense of such action. At any point following the receipt of such notice, the Company may, by written notice to the Indemnified Party, assume the defense and control of any such third-party Claim, with the Company's own counsel and at the Company's own expense. In the event that the Company assumes the defense and control of any third-party claim against an Indemnified Party, the Indemnified Party and its legal counsel will be entitled to participate in (but not control) the defense of such third-party claim at its own expense, and the Company will not be required to reimburse the Indemnified Party for any expenses of its own legal counsel incurred from and after the point that the Company takes control of the defense of such third-party claim, provided, however, that if the Company and the Indemnified Party shall reasonably determine that due to the existence of an actual or potential conflict of interest between such Indemnified Party and the Company, the Company's counsel is unable to represent both the Indemnified Party and the Company, then the Indemnified Party shall be entitled to use separate counsel of its own choice, and the Company shall promptly advance its reasonable expenses of such separate counsel upon submission of invoices therefor. The Indemnified Party agrees to cooperate fully with the Company in the defense of any third-party Claim. The Company shall promptly pay expenses reasonably incurred under the terms of this Indemnification Agreement by any Indemnified Party in defending, participating in, or settling any action, proceeding or

investigation in which such Indemnified Party is a party or is threatened to be made a party or otherwise is participating in by reason of the engagement under the Agreement, upon submission of invoices therefor, whether in advance of the final disposition of such action, proceeding, or investigation or otherwise. Each Indemnified Party shall repay to the Company any and all such amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefor.

D. In order to provide for just and equitable contribution if a claim for indemnification pursuant to these indemnification provisions is made but it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) that such indemnification may not be enforced in such case, even though the express provisions hereof permit indemnification in such cases, then the relative fault of the Company, on the one hand, and the Indemnified Parties, on the other hand, in connection with the statements, acts or omissions which resulted in the losses, claims, damages, liabilities and costs giving rise to the indemnification claim and other relevant equitable considerations shall be considered; and further provided that in no event will the Indemnified Parties' aggregate contribution for all losses, claims, damages, liabilities and expenses with respect to which contribution is available hereunder exceed the amount of fees actually received by the Indemnified Parties pursuant to the Agreement. No person found liable for a fraudulent misrepresentation shall be entitled to contribution hereunder from any person who is not also found liable for such fraudulent misrepresentation.

E. Subject to any applicable restriction or limitation imposed by the Company's Chapter 11 cases, in the event the Company and A&M seek judicial approval of the Agreement or authorization to enter into a new engagement agreement pursuant to either of which A&M would be engaged by the Company, the Company shall promptly pay expenses reasonably incurred by the Indemnified Parties, including attorneys' fees and expenses, in connection with any motion, action or claim made either in support of or in opposition to any such retention or authorization, whether in advance of or following any judicial disposition of such motion, action or claim, promptly upon submission of invoices therefor and regardless of whether such retention or authorization is approved by any court. The Company will also promptly pay, subject to any applicable restrictions or limitations imposed by the Company's Chapter 11 cases, the Indemnified Parties for any expenses reasonably incurred by them, including attorneys' fees and expenses, in seeking payment of all amounts owed it under the Agreement (or any new engagement agreement) whether through submission of a fee application or in any other manner, without offset, recoupment or counterclaim, whether as a secured claim, an administrative expense claim, an unsecured claim, a prepetition claim or a postpetition claim.

F. Neither termination of the Agreement nor termination of A&M's engagement nor the conversion of the Company's Chapter 11 case under the United States Bankruptcy Code (to one under a different chapter) shall affect these indemnification provisions, which shall hereafter remain operative and in full force and effect.

G. The rights provided herein shall not be deemed exclusive of any other rights to which the Indemnified Parties may be entitled under the certificate of incorporation or bylaws of the Company, any other agreements, any vote of stockholders or disinterested directors of the Company, any applicable law or otherwise.



Arcapita Bank B.S.C.(c)

ALVAREZ & MARSAL NORTH AMERICA,  
LLC

By: \_\_\_\_\_  
Mohammed Chowdhury  
Executive Director

By: \_\_\_\_\_  
Lawrence Hirsh  
Managing Director



**Exhibit C**

**Declaration of Lawrence R. Hirsh**

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

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

**DECLARATION OF LAWRENCE R. HIRSH IN SUPPORT OF DEBTORS’  
APPLICATION FOR INTERIM AND FINAL ORDERS APPROVING THE  
EMPLOYMENT AND RETENTION OF ALVAREZ & MARSAL NORTH AMERICA,  
LLC AS FINANCIAL ADVISORS TO DEBTORS AND DEBTORS IN POSSESSION  
PURSUANT TO SECTIONS 327(a) AND 328 OF THE BANKRUPTCY CODE**

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

**Lawrence R. Hirsh**, being duly sworn, hereby states as follows:

1. I am a Managing Director with Alvarez & Marsal North America, LLC (together with employees of its affiliates (all of which are wholly-owned by its parent company and employees), its wholly owned subsidiaries, and independent contractors, “**A&M**”), a restructuring advisory services firm with numerous offices throughout the country. I submit this declaration on behalf of A&M (the “**Affidavit**”) in support of the Debtors’ Application to Employ And Retain Alvarez & Marsal North America, LLC as Financial Advisors to Debtors And Debtors in Possession Pursuant to Sections 327(a) and 328 of the Bankruptcy Code (the “**Application**”)1 on the terms and conditions set forth in the Application and the engagement

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

letter between Debtors and A&M attached to the Application as Exhibit B (the “*Engagement Letter*”). Except as otherwise noted,<sup>2</sup> I have personal knowledge of the matters set forth herein.

**Disinterestedness and Eligibility**

2. A&M together with its affiliates (the “*Firm*”) utilize certain procedures (“*Firm Procedures*”) to determine the Firm’s relationships, if any, to parties that may have a connection to a client debtor. In implementing the Firm Procedures, the following actions were taken to identify parties that may have connections to the Debtors, and the Firm’s relationship with such parties:

(a) A&M requested and obtained from the Debtors extensive lists of interested parties and significant creditors (the “*Potential Parties in Interest*”).<sup>3</sup> The list of Potential Parties in Interest which A&M reviewed is annexed hereto as Schedule A. The Potential Parties in Interest reviewed include, among others, the Debtors, prepetition lenders, directors, the fifty (50) largest unsecured creditors of the Debtors (on a consolidated basis), significant customers and suppliers, parties holding ownership interests in the Debtors and significant counterparties to material agreements. A&M then compared the names of each of the Potential Parties in Interest to the names in its master electronic database of the Firm’s current and recent clients (the “*Client Database*”). The Client Database generally includes the name of each client of the Firm, the name of each party who is or was known to be adverse to the client of

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2 Certain of the disclosures herein relate to matters within the personal knowledge of other professionals at A&M and are based on information provided by them.

3 The list of Potential Parties in Interest is expected to be updated during these cases. A&M continues to review the relationships its attorneys may have with potentially interested parties and to determine whether any relationships other than those set forth herein exist. As may be necessary, A&M will supplement this Affidavit if it becomes aware of a relationship that may adversely affect A&M’s retention in these cases or discovers additional parties in interest through the filing of statements of financial affairs or statements under Rule 2019. A&M will update this disclosure if it is advised of any trading of claims against or interests in the Debtors that may relate to A&M’s retention or otherwise requires such disclosure.

the Firm in connection with the matter in which the Firm is representing such client, the name of each party that has, or had, a substantial role with regard to the subject matter of the Firm's retention, and the names of the Firm professionals who are, or were, primarily responsible for matters for such clients.

(b) An email was issued to all Firm professionals requesting disclosure of information regarding: (i) any known personal connections between the respondent and/or the Firm on the one hand, and either the Potential Parties in Interest or the Debtors, on the other hand,<sup>4</sup> (ii) any known connections or representation by the respondent and/or the Firm of any of the Potential Parties in Interest in matters relating to the Debtors; and (iii) any other conflict or reason why A&M may be unable to represent the Debtors.

(c) Known connections between former or recent clients of the Firm and the Potential Parties in Interest were compiled for purposes of preparing this Affidavit. These connections are listed in Schedule B annexed hereto.

3. As a result of the Firm Procedures, I have thus far ascertained that, except as may be set forth herein, upon information and belief, if retained, A&M:

(a) is not a creditor of the Debtors (including by reason of unpaid fees for prepetition services),<sup>5</sup> an equity security holder of the Debtors;

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4 In reviewing its records and the relationships of its professionals, A&M did not seek information as to whether any A&M professional or member of his/her immediate family: (a) indirectly owns, through a public mutual fund or through partnerships in which certain A&M professionals have invested but as to which such professionals have no control over or knowledge of investment decisions, securities of the Debtors or any other party in interest; or (b) has engaged in any ordinary course consumer transaction with any party in interest. If any such relationship does exist, I do not believe it would impact A&M's disinterestedness or otherwise give rise to a finding that A&M holds or represents an interest adverse to the Debtors' estates.

5 See paragraph 11 below.

(b) is not, and has not been, within 2 years before the date of the filing of the petition, a director, officer, or employee of the Debtors; and

(c) does not have an interest materially adverse to the interests of the Debtors' estates, or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

4. As can be expected with respect to any international professional services firm such as A&M, the Firm provides services to many clients with interests in the Debtors' Chapter 11 Cases. To the best of my knowledge, except as indicated below, the Firm's services for such clients do not relate to the Debtors' chapter 11 cases.

5. In addition to the relationships described on Schedule B hereto, in the course of its review, A&M learned that the Firm maintains a relationship with certain Potential Parties in Interest that may relate to the Debtors' cases:

(a) An A&M affiliate provides interim and crisis management services to Church Street Health Management, LLC and certain of its affiliates as debtors and debtors in possession ("***Church Street***"). A non-debtor affiliate of the Debtors is a significant equity holder of Church Street and certain of such non-debtor affiliates' employees sit on Church Street's board of directors. No Firm personnel providing services on the Church Street transaction are involved in the services provided for the Debtors, and vice versa, and the Firm will institute an information screen between the respective engagement teams. In addition, as a result of the Firm's relationship with Church Street, A&M and the Debtors have agreed that A&M will not provide services to the Debtors as it relates to its investment in Church Street.

(b) JP Morgan Chase Bank, N.A. ("***JPMC***") together with certain of its affiliates (collectively "***JPM***") is an interested party in the Debtors' Chapter 11 Cases. Under a

credit facility (the “*Credit Facility*”) to A&M’s parent company Alvarez & Marsal Holdings, LLC (“*A&M Holdings*”) JPMC is a co-lead bank (the “*Lead Bank*”) and J.P. Morgan Securities LLC is a co-lead arranger. JPMC is the syndication agent and the Lead Bank is providing financing. In addition to the Lead Bank’s receipt of interest in its capacity as a lender under the Credit Facility, JPM has received certain customary and negotiated fees and reimbursement of expenses in connection with its role under the Credit Facility. No persons involved in providing services to the Debtors have participated in the negotiation of the terms or execution of the Credit Facility with JPM.

(c) Richard Morawetz, an employee of an affiliate of A&M has been appointed receiver (“*Receiver*”) of the Mortgaged Property of First American Development Group/Carib, LLC which owns the Pond Bay development located in St. John, U.S. Virgin Islands, a project in which an affiliate of the Debtors has an equity investment. In addition, affiliates of A&M act as agent for the Receiver. No A&M personnel that provide services to the Debtors will be involved in the services provided to this client.

6. Further, as part of its diverse practice, the Firm appears in numerous cases and proceedings, and participates in transactions that involve many different professionals, including attorneys, accountants, and financial consultants, who represent claimants and parties-in-interest in the Debtors’ chapter 11 cases. Further, the Firm has performed in the past, and may perform in the future, advisory consulting services for various attorneys and law firms, and has been represented by several attorneys and law firms, some of whom may be involved in these proceedings. Based on our current knowledge of the professionals involved, and to the best of my knowledge, none of these relationships create interests materially adverse to the Debtors in matters upon which A&M is to be employed, and none are in connection with these cases.

7. To the best of my knowledge, no employee of the Firm is a relative of, or has been connected with the United States Trustee in this district or its employees.

8. Accordingly, to the best of my knowledge, A&M is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code, in that A&M: (i) is not a creditor, equity security holder, or insider of the Debtors; (ii) was not, within two years before the date of filing of the Debtors’ chapter 11 petitions, a director, officer, or employee of the Debtors; and (iii) does not have an interest materially adverse to the interest of the Debtors’ estates or of any class of creditors or equity security holders.

9. If any new material relevant facts or relationships are discovered or arise, A&M will promptly file a supplemental declaration.

#### **Compensation**

10. Subject to Court approval and in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, applicable United States Trustee guidelines, and the Local Rules of this Court, A&M will seek from the Debtors payment for compensation on an hourly basis and reimbursement of actual and necessary expenses incurred by A&M. A&M’s customary hourly rates as charged in bankruptcy and non-bankruptcy matters of this type by the professionals assigned to this engagement are outlined in the Application. These hourly rates are adjusted annually.

11. To the best of my knowledge, (i) no commitments have been made or received by A&M with respect to compensation or payment in connection with these cases other than in accordance with applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, and (ii) A&M has no agreement with any other entity to share with such entity any compensation received by A&M in connection with these Chapter 11 Cases.



12. By reason of the foregoing, I believe A&M is eligible for employment and retention by the Debtors pursuant to sections 327(a) (as modified by sections 1107(b)), 328, 330 and 331 of the Bankruptcy Code and the applicable Bankruptcy Rules and Local Rules.

Dated this 2<sup>nd</sup> day of April 2012

By: /s/ Lawrence R. Hirsh  
Lawrence R. Hirsh  
Managing Director

**Schedule A**

**List of Potential Parties in Interest**

(i) **Debtor entities:**

Arcapita Bank B.S.C (c)  
Arcapita Investment Holdings Limited  
Arcapita LT Holdings Limited  
WindTurbine Holdings Limited  
AEID II Holdings Limited  
RailInvest Holdings Limited

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

Standard Charter Bank  
WestLB AG

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

Jasmine Quadrilateral Investment Corp.

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

Current Board Members:

Sheikh Mohammed Abdulaziz Aljomaih  
Mr. Abdulaziz Hamad Aljomaih  
Mr. Ghazi Fahad Alnafisi  
Sheikh Khalid bin Thani bin Abdullah al-Thani  
Mr. Ibrahim Yusuf Al-Ghanim  
Mr. Abdulla Abdullatif Al-Fozan  
Mr. Abdulrahman Abdulaziz Al-Muhanna  
Mr. Junaidi Masri  
H.E. Sheikh Jassim bin Hamad bin Jassim bin Jabr Al-Thani  
Mr. Atif Ahmed Abdulmalik  
Mr. Aamer Abduljalil Al-Fahim

Previous Board Members:

Dr. Khalid Boodai  
Mr. Khalifa Mohammed Al-Kindi  
Hajah Hartini Binti Haji Abdulla  
Dr. HJ Mohd. Amin Liew Bin Abdullah

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

Gibson, Dunn & Crutcher LLP  
Linklaters  
Rothschild  
The Garden City Group, Inc.  
Alvarez & Marsal  
KPMG

Hatim S. Zu'Bi & Partners  
Trowers & Hamlins  
Mourant Ozannes

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

Central Bank of Bahrain  
Commerzbank  
National Bank of Bahrain  
Bahrain Bay Development B.S.C.(c)  
District Cooling Capital Limited  
Arcsukuk (2011 - 1) Limited  
Euroville Sarl (formally Satinland Finance Sarl)  
Riyad Bank  
VR Global Partners LP  
Midtown Acquisitions LP  
Thornbeam Limited  
Perbadanan Tabung Amanah Islam Brunei  
Fortis Bank NA/NV  
Overseas Fund Co. S.P.C.  
Devonshire Limited  
Standard Bank plc  
BBB Holding Company II Limited  
Goldman Sachs Lending Partners  
Barclays Bank plc  
Bank of America N.A.  
CIMB Bank Berhad  
Credit Suisse, London  
Deutsche Bank Luxembourg S.A.  
European Islamic Investment Bank Plc  
Malayan Banking Berhad, London Branch  
Mashreqbank psc  
Royal Bank of Scotland N.V.  
The Royal Bank of Scotland plc  
The Arab Investment Company S.A.A.  
ING Bank N.V.  
HSH Nordbank AG, Luxembourg Branch  
Yayasan Sultan Haji Hassanal Bolkia  
Bandtree SDN BHD  
Saudi Industrial Capital I Limited  
Fuad Al Ghanim & Sons General Trading and Contracting  
BAWAG P.S.K. Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse  
Aktiengesellschaft  
BBK B.S.C.  
Boubyan Bank K.S.C.  
Doha Bank  
Natixis

Perbadanan Tabung Amanah Islam Brunei  
Tadhamon Capital B.S.C.  
Kuwait Finance House KSC  
NavIndia Holding Company Limited  
Commerzbank (beneficiary PVC (Lux) Lux Holding Company S.a. r.l.)  
Falcon Gas Storage Company, Inc.  
The Governor and Company of the Bank of Ireland  
Bank of Taiwan, Singapore Branch  
G.P. Zachariades Overseas Ltd.  
Tabung Amanah Pekerja

(vii) **The Debtors' ordinary course professionals:**

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

(viii) **The Debtors' landlords:**

Noon Investment Company

(ix) **The Debtors' utility providers:**

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

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

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

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

[REDACTED]<sup>1</sup>

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

Keypoint Consulting WLL  
Nass Contracting Co. W.L.L / Murray & Ro  
ADP Total Source  
Bahrain Bay Development B.S.C. (c)  
King & Spalding  
American Express  
Advent Resource Consultancy  
Ernst & Young  
Paget Brown & Co  
Bahrain Bay Utilities Company BSC(c)  
Al-Gosaibi Travel Agency  
KPMG  
Social Insurance Organization (GOSI)  
Yousef A Alammar  
Korn / Ferry International  
Bahrain Telecom. Company  
Cleary Gottlieb Steen & Hamilton LLP  
Navigant Consulting Inc  
CDL Properties Ltd.  
Walter Knoll AG & Co. KG  
Illinois Department of Revenue  
PointPark Properties s.r.o.  
Path Solutions K.S.C.C  
Sima Samiealhak Q Malak  
Dawnay, Day & Co. Limited  
Takaful International Co.  
ASM Formule 3 / Art Grand Prix  
GlassRanter Advisory & Capital Group, LL  
CrediMax  
The Blackstone Group International Limit  
Central Bank of Bahrain  
Marsh  
MAF Dalkia Bahrain  
Treasurer, State of Maine  
2Connect WLL  
Oliver Wyman Limited  
Siteco

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<sup>1</sup> The Debtors will be filing a motion to file the full list of customers under seal.

Riyadh House Est  
Ministry of Electricity  
Maples and Calder  
KMS Team New York Inc.  
Peter Paul Pardi  
Pricewaterhouse Coopers LLP  
CMS Cameron McKenna LLP  
St. Christophers School  
Al-Moayyed Computers  
Trowers & Hamlins  
Riffa Views International School  
Dragonfly LLC  
Dadabhai Travel  
Hogan Lovells Middle East LLP  
T. Hoffman Associates, LLC  
Heidrick & Struggles, Inc

**(xiii) Parties to executory contracts:**

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

**(xiv) Investments of the Debtor and Non-Debtor Subsidiaries:**

3PD, Inc.  
AEIY II  
AHQ Holding Company W.L.L.  
ARC (Cayman) Real Estate Income Fund L.P.  
ARC Real Estate Income Fund  
Arcapita Central & Eastern Europe Residential Development I  
Arcapita European Industrial Development I  
Arcapita European Industrial Development II  
Arcapita European Industrial Yielding I  
Arcapita GCC Industrial Yielding II  
Arcapita GCC Industrial Yielding III  
Arcapita GCC Utilities Development I  
Arcapita India Business Park Development I  
Arcapita India Business Park Development II  
Arcapita India Growth Capital I

Arcapita International Luxury Residential Development I  
Arcapita Japan Residential Yielding I  
Arcapita KSA Industrial Development I  
Arcapita Qatar Real Estate Investment I  
Arcapita UK Senior Living Yielding I  
Arcapita US Residential Development I  
Arcapita US Residential Development II  
Arcapita US Residential Development III (c)  
Arcapita US Retail Yielding I  
Arcapita US Senior Living Yielding IV  
Arcapita Ventures I Limited  
ASIY II  
Aspen Valley Ranch LLC  
Bahrain Bay Development B.S.C.(c)  
Bahrain Bay Development II B.S.C.(c)  
Bijoux Turner, LLC  
BPC (Cayman) Limited  
C.E.P.L.  
Cirrus Industries, Inc.  
City Square Wholesale Trading Private Limited  
Cypress Communications, Inc.  
Falcon Gas Storage Company Inc.  
Freightliner Group Limited  
Honiton Energy Caymans Limited  
Jill Acquisition LLC  
Meridian Surgical Partners LLC  
One Steamboat Place  
Parking (Dead deals)  
PODS, Inc.  
Poland Residential Development Company Limited  
Pond Bay  
Profine GmbH  
Riffa Views B.S.C.(c)  
Southland Log Homes, Inc.  
Strategic Investors Facility I  
Strategic Investors Program II  
Strategic Investors Program IV  
The Tensar Corporation LLC  
Varel International Energy Services, Inc.  
Victory Heights Golf and Residential Development Company LLC  
Viridian Group Holdings Limited



**Schedule B**

**Potential Connections or Related Parties**

**Current and Former Clients of A&M and/or its Affiliates<sup>2</sup>**

American Express  
Arcapita Bank BSC  
Barclays  
Bijoux Ternier  
Blackstone Group  
Commerzbank  
CSFB  
Deutsche Bank  
Ernst & Young  
Falcon Gas Storage Company, Inc.<sup>3</sup>  
Fortis Bank  
Freightliner Group Ltd.  
Goldman Sachs  
Honiton Energy  
HSH Nordbank  
ING Bank  
JPMorgan Chase  
KPMG  
Kuwait Finance House  
MAF Dalkia Bahrain  
Meridian Surgical Partners  
Marsh  
Microsoft Corporation  
Natixis  
Navigant Consulting  
Oliver Wyman Limited  
Riyad Bank  
Standard Chartered Bank  
West LB

**Significant Equity Holders of Current and Former A&M Clients<sup>4</sup>**

ADP  
American Express  
Arab Bank  
Arcapita Bank BSC  
Barclays  
BAWAG PSK Bank  
Blackstone Group  
Commerzbank

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<sup>2</sup> A&M and/ or an affiliate is currently providing or has previously provided certain consulting services to these parties or their affiliates in wholly unrelated matters.

<sup>3</sup> An affiliate of A&M has been retained by King & Spaulding on behalf of Arcapita, Inc.; Arcapita Bank B.S.C.; and Falcon Gas Storage Company, Inc. on wholly unrelated matters. No A&M personnel that provide services to the Debtors will be involved in the services provided to this client.

<sup>4</sup> These parties or their affiliates are significant equity holders of clients or former clients of A&M or its affiliates in wholly unrelated matters.

CSFB  
Deutsche Bank  
Fortis Bank  
Goldman Sachs  
Honeywell  
ING Bank  
JPMorgan Chase  
Marsh  
Microsoft Corporation  
Natixis  
PriceWaterhouseCoopers  
Royal Bank of Scotland  
Standard Chartered Bank

**Creditors in A&M Engagements**<sup>5</sup>

American Express  
Barclays  
CSFB  
Deutsche Bank  
Ernst & Young  
Fortis Bank  
Goldman Sachs  
HSH Nordbank  
ING Bank  
JPMorgan Chase  
Natixis  
Standard Bank  
Standard Chartered Bank  
West LB

**Members of Noteholders Group**<sup>6</sup>

American Express

**Professionals & Advisors**

Cleary Gottlieb Steen & Hamilton<sup>7 8</sup>

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<sup>5</sup> A&M is currently advising or has previously advised these parties or their affiliates as creditors or various official creditors' committees in which these parties or their affiliates were members or which represented the interests of these parties or their affiliates.

<sup>6</sup> A&M is currently advising or has previously advised various official or unofficial noteholders' committees in which these parties or their affiliates were members or which represented the interests of these parties or their affiliates.

<sup>7</sup> These professionals have represented clients in matters where A&M was also an advisor (or provided crisis management) to the same client. In certain cases, these professionals may have engaged A&M on behalf of such client.

<sup>8</sup> These professionals represent A&M and/ or an affiliate on wholly unrelated matters.

CMS Cameron McKenna LLP<sup>6</sup>  
Ernst & Young<sup>6</sup>  
Gibson Dunn & Crutcher<sup>6</sup>  
Hogan Lovells<sup>6 7</sup>  
King & Spaulding<sup>6 7 9</sup>  
KPMG<sup>6</sup>  
Linklaters<sup>6</sup>  
Maples & Calder<sup>6</sup>  
Marsh<sup>6</sup>  
PriceWaterhouseCoopers<sup>6</sup>  
N.M. Rothschild & Sons<sup>6</sup>

**Significant Joint Venture Partners**<sup>10</sup>

Arcapita Bank BSC  
Microsoft Corporation

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<sup>9</sup> An affiliate of A&M has been retained by King & Spaulding on behalf of Arcapita, Inc.; Arcapita Bank B.S.C.; and Falcon Gas Storage Company, Inc. on wholly unrelated matters. No A&M personnel that provide services to the Debtors will be involved in the services provided to this client.

<sup>10</sup> These parties or their affiliates are significant joint venture partners of other clients or former clients of A&M or its affiliates in wholly unrelated matters.