

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 Court¹ and the Court’s General Order M-399 (available at <http://nysb.uscourts.gov/orders/orders2.html>), by registered users of the Court’s case filing system and by all other parties in interest on a 3.5 inch disk, preferably in portable document format, Microsoft Word, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 on (i) 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) the Official Committee of Unsecured Creditors, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis F. Dunne, Esq. and Evan R. Fleck, Esq.; and (iv) counsel to Silver Point Finance, LLC, White & Case LLP, 1155 Avenue of the America, New York, NY 10036-2787 (Attn: Scott Greissman, Esq. and Andrew Zatz, Esq.).

¹ 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].

Dated: New York, New York
September 25, 2012

/s/ Michael A. Rosenthal
Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew J. Williams (MW 4081)
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

ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION

GIBSON, DUNN & CRUTCHER LLP

Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew Williams (MW-4081)
Matthew K. Kelsey (MK-3137)
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Attorneys for the Debtors and Debtors in Possession

**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	

**DEBTORS' MOTION FOR ENTRY OF AN ORDER
AUTHORIZING THE DEBTORS TO ENTER INTO
A FINANCING COMMITMENT LETTER AND INCUR
RELATED FEES, EXPENSES AND INDEMNITIES**

Arcapita Bank B.S.C.(c) ("*Arcapita*") and certain of its affiliates (each, a "*Debtor*" and collectively, the "*Debtors*") in the above referenced chapter 11 cases (the "*Chapter 11 Cases*") hereby file this Motion (the "*Motion*") for entry of an order, substantially in the form attached hereto as Exhibit A (the "*Proposed Order*"), authorizing the Debtors to enter into a post-petition commitment letter (as described below, the "*Commitment Letter*") with Silver Point Finance, LLC ("*Silver Point*") and incur related fees, expenses and indemnities. In support of the Motion, the Debtors respectfully represent as follows:

PRELIMINARY STATEMENT

The Debtors must obtain debtor in possession financing to enable them to maximize the value of the Arcapita Group¹ portfolio companies and investments (collectively, the “*Arcapita Group Investments*”) and bridge the Debtors’ cash needs through their projected chapter 11 emergence in the first quarter of 2013. Prior to filing this Motion, the Debtors spent considerable time and effort to complete a solicitation process structured to obtain the best financing available. The Silver Point Commitment Letter, annexed hereto as **Exhibit B**, is the product of that process.

Silver Point’s commitment remains subject to the satisfaction of certain conditions and contingencies, most notably, Silver Point’s due diligence and internal credit committee approval, this Court’s approval of the Debtors’ entering into the Commitment Letter and Court authorization for the Debtors to pay certain fees to and expenses of Silver Point. Unless the Debtors are authorized to execute the Commitment Letter and pay the associated fees and expenses, Silver Point will not be obligated to pursue the proposed financing, financing that, as noted above, is critical to preserve estate value and to maximize recoveries. For these reasons and the reasons set forth further below, the Motion should be approved.

JURISDICTION

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This Motion is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for this Motion are sections 105(a), 363(b), 503(b)(1) and 507(a)(2) of the Bankruptcy Code.

¹ The “*Arcapita Group*” means Arcapita along with its Debtor and non-Debtor subsidiaries and affiliates.

THE NEED FOR ADDITIONAL FINANCING

2. To date, in the Chapter 11 Cases, the Debtors have sought neither post-petition financing nor the use of any secured lender's cash collateral.² Nonetheless, as the Chapter 11 Cases have progressed, the Debtors have expended a significant amount of their available cash to fund restructuring costs and, in particular, to support the value of Arcapita Group Investments. These expenditures have all been made pursuant to Court approved budgets and have enabled the Debtors to move closer to a successful exit from chapter 11. *See Declaration of Lawrence R. Hirsh in Support of Debtors' Motion for Entry of an Order Authorizing the Debtors To Enter into a Financing Commitment Letter and Incur Related Fees, Expenses and Indemnities in Connection Therewith*, annexed hereto as **Exhibit C** (the "**Hirsh Declaration**"), ¶¶ 10, 11.³

² Arcapita is the borrower under two facilities made available by Standard Chartered Bank: (i) a \$50 million facility dated May 30, 2011, of which approximately \$46.6 million is outstanding and which matured on March 28, 2012 (the "**SCB May 2011 Facility**"); and (ii) a \$50 million facility dated December 22, 2011, of which approximately \$50.1 million is outstanding and which matured on March 28, 2012 (the "**SCB December 2011 Facility**" and, together with the SCB May 2011 Facility, the "**SCB Facilities**"). The SCB Facilities represent the Debtors' sole secured obligations. There is currently no cash collateral securing these obligations. All other obligations of the Debtors are unsecured. A detailed description of the Debtors' entire capital structure is set forth in the *Declaration of Henry A. Thompson in Support of the Debtors' Chapter 11 Petitions and First Day Motion and in Accordance with Local Rule 1007-2* [Docket No. 6] and incorporated herein by reference.

³ In general, the Debtors' expenditures during the Chapter 11 Cases have been made with the support of both the official committee of unsecured creditors appointed in the Chapter 11 Cases (the "**Committee**") and the joint provisional liquidators appointed in the Cayman Islands liquidation proceedings of AIHL (the "**Joint Provisional Liquidators**") and pursuant to one of the eight interim cash management orders entered in the cases. Each associated interim cash budget detailed the Debtors' permitted deal funding expenses (*i.e.* payment to or for the benefit of Arcapita Group Investments). Total disbursements for the period covered by the *Eighth Interim Order (A) Authorizing Debtors to (I) Continue Use of Existing Cash Management System, Bank Accounts and Business Forms and (II) Continue Ordinary Course Intercompany Transactions; and (B) Granting an Extension of the Time To Comply with the Requirements of Section 345(b) of the Bankruptcy Code* [Docket No. 472] (the "**Eighth Interim Cash Management Order**"), for example, equaled approximately \$11.3 million. Of that amount, over 43% comprised deal funding expenses. Moreover, the Debtors, with specific Court approval, have spent over \$40 million in aggregate to support their indirect equity interest in one non-Debtor Arcapita Group Investment. *See Order pursuant to Sections 365(d)(3) and 363(b)(1) of the Bankruptcy Code Authorizing Arcapita To Make Investment To Support the Lusail Joint Venture* [Docket No. 196] and *Order pursuant to Sections 365(d)(3) and 363(b)(1) of the Bankruptcy Code Authorizing Arcapita To Fund Lusail Joint Venture Lease Payment* [Docket No. 423].

3. The Debtors' remaining cash on hand is insufficient to adequately fund Arcapita Group operations and bridge the Debtors to emergence from chapter 11 (projected to occur at the end of the first quarter of 2013). *See* Hirsh Declaration ¶ 19. Based on, among other things, recent cash flow budgets prepared by the Debtors' professionals and a related DIP Budget (defined below), a \$150 million debtor in possession financing facility will provide the funding required for the Debtors to successfully emerge from the Chapter 11 Cases and to maximize the value of the Arcapita Group Investments. *See* Hirsh Declaration ¶¶ 19-21.

THE SOLICITATION PROCESS

4. The Arcapita Group Investments are anticipated to generate a significant amount of value. What is uncertain, however, is the timing of the exits from these investments. In this regard, the value derived from a quick, forced sale of a particular Arcapita Group Investment may be vastly different from what could be realized if the exit occurred in the ordinary course of the investment cycle for that investment. Anticipating that there would be a mismatch between the ideal timing to exit Arcapita Group Investments and the Debtors' available liquidity, the Debtors and their financial advisors, Rothschild Inc. and N M Rothschild & Sons (together, "***Rothschild***"), commenced a rigorous marketing and solicitation process to identify potential providers of debtor in possession financing that conformed to the Debtors' Shari'ah compliant financing requirements. This process led the Debtors, subject to court approval, to enter into the Commitment Letter with Silver Point to provide the required Shari'ah compliant debtor in possession financing (the "***Proposed Transaction***"). *See Declaration of Homer Parkhill in Support of Debtors' Motion for Entry of an Order Authorizing the Debtors To Enter into a Financing Commitment Letter and Incur Related Fees, Expenses and Indemnities in Connection Therewith*, annexed hereto as **Exhibit D** (the "***Parkhill Declaration***"), ¶¶ 13-19.

5. The solicitation process was designed to induce each potential contract counterparty (each, a “*Potential Lender*” and collectively, the “*Potential Lenders*”)⁴ to submit its best bid with respect to the Proposed Transaction, to create a level-playing field between Potential Lenders, to ensure that the Potential Lender ultimately selected by the Debtors (the “*Selected Lender*”) had the financial wherewithal to consummate the Proposed Transaction and to maximize value for the benefit of the Debtors and their estates. The basic steps of the solicitation process are set forth below.

- Identifying Potential Lenders: Rothschild identified and contacted more than 29 Potential Lenders who Rothschild believed were or could be interested in providing all or a portion of the required post-petition financing. Such parties primarily included traditional DIP lenders, institutions with experience in Shari'ah compliant lending, Middle Eastern banks, hedge funds and current Arcapita Group creditors. Parkhill Declaration ¶ 14.
- Providing Informational Materials: Of the 29 parties contacted by Rothschild, 18 executed confidentiality agreements and received both a Confidential Information Memorandum (“*CIM*”) and access to a comprehensive virtual data room maintained by Rothschild and updated regularly.⁵ Parkhill Declaration ¶ 15.
- Expense Reimbursement Motion: On August 29, 2012, in response to Potential Lender demands for work fees and/or expense deposits, the Debtors moved for authority to pay a limited \$500,000 expense reimbursement to a single, then to be determined, Potential Lender, when chosen to be the Selected Lender (now known to be Silver Point). No objections were filed to that motion. Prior to the hearing on the motion, the Debtors and the Committee agreed upon a proposed form of order which was entered by the Court on September 21, 2012 [Docket No. 500].
- Indications of Interest: Seven Potential Lenders submitted non-binding indications of interest. The Debtors, after consultation

⁴ For ease of reference, parties who were considered for the Proposed Transaction are referred to herein as Potential Lenders. In actuality, any Arcapita post-petition financing transaction will be in the form of a Shari'ah compliant Murabaha, or commodities transaction, not a loan.

⁵ The CIM incorporated materials prepared by the Debtors' other advisors, including, a financing term sheet and budget.

with their advisors, asked six of the seven Potential Lenders to re-confirm such indications after their receipt of additional diligence materials (including valuation analyses produced by KPMG LLP and waterfall analyses for most of the Arcapita Group's assets). Five did so or submitted revised materials. Parkhill Declaration ¶ 16.

- Receipt of Proposals: The Debtors received proposals from two of the Potential Lenders on or around September 9, 2012. Parkhill Declaration ¶ 19.
- Continued Negotiation: Even after receipt of the proposals, the Debtors and their professionals continued negotiations with the two Potential Lenders over a wide variety of business and legal concerns. Given the rigor of the marketing process that generated the Silver Point proposal, the terms that were ultimately negotiated with Silver Point, and in consideration of all of the other factors relevant to selection of a winning provider, the Debtors, in the sound exercise of their business judgment and based on analyses and advice from their financial advisors, determined that the proposal received from Silver Point was the better offer. Parkhill Declaration ¶¶ 23, 24. Accordingly, after consulting with the Committee, the Debtors selected Silver Point as the Selected Lender, are providing Silver Point with the \$500,000 expense deposit previously authorized by the Court and agreed with Silver Point to seek approval of the Commitment Letter and move forward as expeditiously as possible to consummate the Proposed Transaction.

THE COMMITMENT LETTER

6. Silver Point has committed to provide financing pursuant to the terms and conditions set forth in the Commitment Letter and the term sheet annexed as Exhibit A thereto (the "**Term Sheet**"). Silver Point's commitment is subject to the Debtors' execution of the Commitment Letter and acceptance and return of the associated fee letter ("**Fee Letter**") annexed hereto as **Exhibit E** (which the Debtors have sought Court authority to file under seal), together with payment of fees and expenses on the terms and conditions set forth in the Commitment Letter and Fee Letter. The commitment is further subject to (a) satisfactory completion of Silver

Point's due diligence and (b) receipt of final Silver Point credit committee approval (together the "*Subject Conditions Precedent*").

7. Pursuant to the Commitment Letter, once the Debtors receive notice that the Subject Conditions Precedent are satisfied, Silver Point will be entitled to a 1.50% Commitment Fee⁶ (as defined below).

8. In addition, the Commitment Letter provides that the Debtors will not solicit any alternative financing proposals other than the Proposed Transaction but further provides the Debtors with the benefit of a fiduciary out. Thus, even after the Debtors execute the Commitment Letter, they have the ability to pursue an unsolicited alternative financing proposal if they believe, in the exercise of their fiduciary duties, that such proposal would result in more favorable financing. If the Commitment Letter is terminated as a result of the Debtors' negotiation or execution of any alternative financing proposal, notwithstanding whether the Subject Conditions Precedent have yet been waived or satisfied, Silver Point will be entitled to a fee equal to 0.75% of the amount of the facility in connection with the Proposed Transaction, the entire amount of which shall be payable immediately upon the termination of the Commitment Letter, or if the Debtors determine (acting reasonably) that they have insufficient funds on hand to immediately pay such fee in cash, on the date of the closing of any alternative financing or similar transaction in the Chapter 11 Cases, payable with the first proceeds of such financing or similar transaction. To the extent any such fees are accrued and/or earned but unpaid, Silver Point shall have an administrative expense priority claim in the Debtor Obligors' Chapter 11 Cases pursuant to section 503(b)(1) of the Bankruptcy Code.

⁶ Certain other fees are payable to Silver Point pursuant to the terms of the Fee Letter which the Debtors have requested Court authority to file under seal.

9. The Debtors together with their advisors and Silver Point engaged in hard fought, arms’ length negotiations regarding the terms of the Commitment Letter and the Fee Letter. Parkhill Declaration ¶ 21. In connection with these negotiations, the Debtors sought and received input from the Committee and the Joint Provisional Liquidators. As with any negotiation, there was a substantial give and take in these negotiations. Not every issue that the Debtors raised was resolved precisely in the manner that the Debtors would have preferred. However, on balance, the Debtors believe that the Commitment Letter (and its attached Term Sheet) evidences a commitment to extend arms’ length debtor in possession financing to the Debtors on terms that are within the range of reasonableness for transactions of this type. The Commitment Letter and Term Sheet set forth the following material terms and conditions of the proposed Murabaha facility:⁷

<u>TERM</u>	<u>SUMMARY OF PROVISION</u>
<i>Borrower</i>	AIHL.
<i>Guarantors</i>	(i) Arcapita, (ii) Arcapita LT Holdings Limited (“ ALTHL ”); (iii) Windturbine Holdings Limited; (iv) AEID II Holdings Limited; (v) RailInvest Holdings Limited (“ RailInvest ”); (vi) Arcapita Inc.; (vii) Arcapita Investment Management Limited (“ AIML ”); (viii) Arcapita Inc.; (ix) Arcapita Structured Finance Ltd; (x) Arcapita Investment Funding Limited (“ AIFL ”); (xi) Arcapita Industrial Management I Limited; (xii) Arcapita Limited; and (xiii) Arcapita Pte. Limited (Singapore) (collectively, with AIHL, the “ Obligors ”). ⁸
<i>DIP Collateral</i>	<ul style="list-style-type: none"> • Perfected first-priority liens on all now owned or after acquired assets of Arcapita, AIHL and ALTHL that are not otherwise subject to a lien (subject to certain materiality thresholds set forth in the Commitment Letter) <u>except</u>

⁷ This summary is qualified in its entirety by the provisions of the Commitment Letter. To the extent there are any conflicts between this Motion and the Commitment Letter, the terms of the Commitment Letter shall govern.

⁸ AIHL, Arcapita, Arcapita LT Holdings Limited, Windturbine Holdings Limited, AEID II Holdings Limited, and RailInvest are defined collectively as the “**Debtor Obligors**”.

	<p>avoidance actions (but including the proceeds of such avoidance actions);</p> <ul style="list-style-type: none"> • Perfected junior liens on all now owned or after acquired assets of the Debtor Obligors that are subject to valid, perfected and non-avoidable liens; and⁹ • First-priority liens on all now owned or after acquired assets of the non-Debtor Obligors (but only those that are reasonably determined to be material by Silver Point); <i>provided, however</i>, (a) with respect to AIML, the facility may, subject to due diligence, be secured by only AIML’s performance and management fee receivables and (b) with respect to AIFL, the facility may, subject to due diligence, not be secured by AIFL’s interests in PointPark Properties s.r.o.
Administrative Claims	Silver Point shall receive a superpriority administrative claim in respect of any obligations under the Proposed Transaction pursuant to section 364(c)(1) of the Bankruptcy Code.
Investment Agent	Silver Point or an affiliate or designee thereof, as investment agent on behalf of the DIP Participants (as defined below).
Syndication	Silver Point may bring in additional participants (including Silver Point, the “ DIP Participants ”) to the Proposed Transaction promptly upon the Debtors’ execution and delivery of the Commitment Letter. The Obligors agree actively to assist Silver Point in the syndication process.
Use of Proceeds	<ul style="list-style-type: none"> • Pay profits, fees and other expenses due and payable under the Proposed Transaction; • Pay other amounts in accordance with the budget including, without limitation, investment deal fundings to the extent the DIP Participants have a first priority security interest in such investment deal fundings; • Pay amounts due under the Carve Out (as defined below); and • No portion of the proceeds of the Proposed Transaction may be used to commence or prosecute any action, proceeding, or objection with respect to or related to any claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness, or obligations that are subject of the Release (as defined below).
Release	The Obligors will provide customary releases and exculpations for any claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness or obligations relating to or arising out of the Proposed Transaction
Carve Out	<p>“Carve Out” shall mean:</p> <ol style="list-style-type: none"> a. any unpaid fees due to the United States Trustee pursuant to 28 U.S.C. § 1930 or otherwise and any fees due to the clerk of the Bankruptcy Court; b. the reasonable fees and expenses approved by the Bankruptcy Court incurred by a trustee under section 726(b) or 1104 of the Bankruptcy Code in an aggregate amount not to exceed US\$25,000;

⁹ It is anticipated that no liens shall be provided under the Proposed Transaction with respect to the assets of RailInvest, AEID II Holdings Limited or Windturbine Holdings Limited.

	<p>c. the reasonable expenses of members of the Committee (excluding fees and expenses of professional persons employed by Committee and / or such Committee member individually) in an amount not to exceed US\$75,000;</p> <p>d. to the extent allowed at any time, all unpaid fees and expenses allowed by the Bankruptcy Court of professionals or professional firms retained pursuant to sections 327, 328, 330, 363, or 1103 of the Bankruptcy Code (the “Professional Persons”); and the reasonable fees and expenses of the Joint Provisional Liquidators, in each case, that were incurred or accrued through the date upon which AIHL receives from the Investment Agent a written notice of an Event of Default; and</p> <p>e. to the extent allowed at any time, all fees and expenses of Professional Persons incurred after the date upon which AIHL receives from the Investment Agent actual written receipt of an Event of Default, in the aggregate amount not to exceed US\$15,000,000; provided that:</p> <ol style="list-style-type: none"> (1) the dollar limitations in clause (e) above on fees and expenses shall not be reduced by the amount of any compensation or reimbursement of expenses incurred by or paid to any Professional Person or the Joint Provisional Liquidator prior to the written notification of AIHL by the Investment Agent of the occurrence of an Event of Default in respect of which the Carve Out is invoked or by any fees, expenses, indemnities, or other amounts paid to the Investment Agent, DIP Participant, or their respective attorneys or agents under the Proposed Transaction or otherwise, and (2) to the extent the dollar limitation in clause (e) on fees and expenses is reduced by an amount as a result of payment of such fees and expenses during the continuation of an Event of Default, and such Event of Default is subsequently cured or waived, such dollar limitation shall be increased by an amount equal to the amount by which it has been so reduced
Commitment	Senior secured debtor in possession US Dollar term Murabaha facility in an aggregate approximate amount of US\$150,000,000
Deferred Sale Price	An amount equal to the aggregate sum of: (a) the cost price; (b) all unpaid accrued profit; and (c) all other unpaid accrued amounts due and payable under the Proposed Transaction.
Profit	<p>Cost Price*(L + M)*(N/360) Where:</p> <ul style="list-style-type: none"> • L is LIBOR (3 month LIBOR contracts with LIBOR floor of 2.00%); • M is the Margin (10.50% per annum); and • N is the number of days to elapse from, and including, the date of the purchase contract in respect of the relevant commodities, but excluding the maturity date

<p><i>Commitment Fee¹⁰</i></p>	<p>The Commitment Fee is equal to (x) 1.50% of the amount of the facility in connection with the Proposed Transaction, the entire of amount of which shall be earned by Silver Point in full, and shall be payable separately by the Debtors to Silver Point, pursuant to this clause (x) prior to termination of the Commitment Letter, no later than 1 business day after Silver Point has satisfied the Subject Conditions Precedent, and (y) in the event that the Debtors or the Board make a Determination (as defined below) and, as a result, Silver Point or the Debtors terminates the Commitment Letter, 0.75% of the amount of the facility in connection with the Proposed Transaction with respect to the Proposed Transaction, the entire amount of which shall be earned by Silver Point in full, and shall be payable separately by the Debtors to Silver Point, pursuant to this clause (y) immediately upon Silver Point or the Debtors' termination of the Commitment Letter or, if the Debtors determine (acting reasonably) that they have insufficient funds on hand to immediately pay such fee in cash, on the date of the closing of any alternative financing or similar transaction in the Chapter 11 Cases, payable with the first proceeds of such financing or similar transaction.</p> <p>In any event, for avoidance of doubt, any unpaid fees described above shall have administrative expense priority status in the Debtor Obligors' Chapter 11 Cases pursuant to section 503(b)(1) of the Bankruptcy Code.</p>
<p><i>Availability</i></p>	<p>Single draw (unless Debtors only permitted to initially seek interim relief with respect to the Proposed Transaction).</p>
<p><i>Expense Reimbursement</i></p>	<p>Silver Point shall be entitled to reimbursement for all reasonable and documented fees and expenses arising in connection with the Commitment Letter and the Proposed Transaction; <u>provided that</u>, until Silver Point provides written notification of its satisfaction with the Subject Conditions Precedent, the Expense Reimbursement is capped at \$900,000.¹¹</p>
<p><i>Indemnity</i></p>	<p>Upon the effectiveness of the Commitment Letter, the Obligors agree to indemnify and hold harmless Silver Point and each other DIP Participant from and against any and all actions, suits, proceedings, claims, losses, damages, liability or expenses of any kind relating to the Commitment Letter or the Proposed Transaction; <i>provided that</i>, indemnification shall not be available to the extent any of the above resulted from gross negligence or willful misconduct of the indemnified person.</p>

¹⁰ Certain of these provisions in this chart are not set forth in the Commitment Letter or Term Sheet but are rather set forth in the Fee Letter, which the Debtors have sought Court authority to file under seal. Silver Point has only authorized the Debtors to publicly disclose certain terms of the Fee Letter as set forth in this Motion.

¹¹ As noted above, prior to the filing of the Motion, the Debtors obtained Court authority to provide a deposit of \$500,000 to reimburse the fees and expenses of a single Potential Lender (now known to be Silver Point). The expense reimbursement provisions sought by this Motion, if granted, will supplement the deposit that was previously authorized by the Court and is being provided to Silver Point. Expenses applicable to this cap include any fees or expenses reimbursed from the expense deposit.

<p><i>Financial and Reporting Covenants</i></p>	<ul style="list-style-type: none"> • Financial covenants to include compliance with the expenditure categories detailed under the Budget with actual results to be tested against such Budget on a rolling four-week aggregate basis, subject to a permitted variance of 10% from the aggregate expenditures under the Budget for each applicable four-week test period; <u>provided that</u> (i) line items other than the “Deal-Fundings” line item (as set forth in the most recent Budget provided) shall be subject to a separate permitted variance of 10% from the aggregate expenditures for such line items under the Budget for each applicable four-week test period and (ii) the “Deal Fundings” line item shall be subject to a separate permitted variance of 10% from the expenditures for such line item under the Budget for each applicable four-week test period. • Delivery of annual, semi-annual and quarterly financial statements. • Delivery of quarterly report on value of a subset (to be determined) of the investment assets by agreed third party valuation expert. • Other financial covenants to be discussed, but shall include a collateral value coverage covenant of 3.0:1.0 based upon regularly updated agreed third party valuation of DIP Collateral. • The Obligors shall allow the Investment Agent and the Participants reasonable access to the Obligors’ representatives and books and records during regular business hours to monitor financial performance, Budget compliance, and the DIP Collateral.
<p><i>Events of Default</i></p>	<ul style="list-style-type: none"> • The entry of an order dismissing the case or converting any Debtor Obligor’s case to a chapter 7 case; • The entry of an order appointing a chapter 11 trustee or an examiner with enlarged powers under section 1106 of the Bankruptcy Code; • The entry of an order granting any other claim superpriority status or a lien equal or superior to that granted to the prospective lender for the ratable benefit of the DIP Participants; • The entry of an order staying, reversing, vacating, or modifying the Proposed Transaction or the order approving such transaction without the prospective lender’s prior written consent; • The failure of AIHL to pay the deferred sale price or fees when due; • The failure of any Obligor to comply with financial or certain other covenants; • Any representation or warranty by any Obligor shall be incorrect in any material respect when made; • The entry of an order granting relief from the automatic stay so as to allow a third party to proceed against any material asset of any of the Obligors with a value in excess of US\$[TBD] (subject to due diligence); • The violation of any material term, provision or condition in the order approving the Proposed Transaction; • The making of any payment or disbursement that is not set forth in the budget without the prior written consent of the prospective lender (provided that the

	<p>budget may include a miscellaneous line item); and</p> <ul style="list-style-type: none"> • Any adverse deviation of more than the permitted variation from the amount set forth for the total expenditures under the budget for any four-week budget period.
<i>Maturity Date</i>	<p>The earliest of:</p> <ul style="list-style-type: none"> • March 31, 2013; • the effective date of a chapter 11 plan for the Debtors; • the date the Court orders the conversion of the bankruptcy case of any Debtor Obligor to a chapter 7 liquidation or the dismissal of the bankruptcy case of any Debtor Obligor; • the acceleration of the deferred sale price; and • the date upon which the sale of all or substantially all of the Obligors' assets is consummated.
<i>Termination of Commitment</i>	<p>To the extent the Proposed Transactions contemplated in the Commitment Letter have not been consummated by the later of (a) October 15, 2012 or (b) 21 days after the Company has been notified in writing that the Subject Conditions Precedent have been satisfied, Silver Point shall have the right to terminate the Commitment Letter; provided that, in no case may Silver Point terminate if such failure to meet one of the foregoing deadlines is a sole and direct consequence of Silver Point's material breach of its material obligations under the Commitment Letter.</p>
<i>Governing Law</i>	<p>New York</p>
<i>Exclusivity / Fiduciary Out</i>	<p>The Commitment Letter shall not prevent the Debtors' board of directors (or its equivalent, the "<i>Board</i>") from receiving any unsolicited proposal for debtor-in-possession financing or similar transaction during the Chapter 11 Cases from a third party and negotiating such proposal with a third party and providing due diligence information regarding the Debtors to such third party if the Board, on advice of its financial and legal advisors, determines (a "<i>Determination</i>") that doing so is reasonably required to comply with its fiduciary duties to the Debtors; <u>provided that</u>, in the event the Board or the Debtors receives any proposal, the Debtors shall promptly notify Silver Point of such receipt, and promptly deliver to Silver Point copies of all such proposal documents and summaries of any and all oral and other communications between the Debtors or the Board, on the one hand, and the proposed counterparty under such debtor-in-possession financing or similar transaction on the other, and cooperate with Silver Point in its reasonable requests for further information and communications regarding such proposal; and provided further that if the Debtors or the Board makes a Determination, (i) the Debtors shall immediately notify Silver Point in writing, and (ii) (a) Silver Point may thereafter terminate the Commitment Letter at any time and (b) the Debtors may terminate the Commitment Letter at any time if they have sought Court approval to execute definitive documentation regarding a fully-financed, alternative debtor-in-possession financing or similar transaction from a creditworthy counterparty not subject to due diligence or credit committee approval if the Board has determined based upon advice of financial & legal advisors that termination of the Commitment Letter under such circumstance is reasonably required for the Board to comply with its fiduciary</p>

	<p>duties, in which case, under the circumstances of either of the immediately preceding clauses (a) or (b), the Expense Reimbursement and the portion of the Commitment Fee described in clause (y) of “Commitment Fee” above (<i>i.e.</i>, 0.75% of the amount of the facility in connection with the Proposed Transaction) will be payable immediately in cash on the date Silver Point or the Debtors terminate the Commitment Letter, provided, that, with respect to such portion of the Commitment Fee, if the Debtors determine (acting reasonably) that they have insufficient funds on hand to immediately pay such portion of the Commitment Fee in cash, such amount shall be payable on the date of the closing of such alternative debtor-in-possession financing or other similar transaction, with the first proceeds of such financing or other transaction.</p> <p>In any event, for the avoidance of doubt, any accrued and/or earned but unpaid amounts payable to Silver Point pursuant to the foregoing shall have administrative expense priority status in the Chapter 11 Cases of the Debtor Obligors pursuant to section 503(b)(1) of the Bankruptcy Code.</p>
<p><i>Outside Date for Entry of an Order Approving Proposed Transaction</i></p>	<p>November 30, 2012.</p>

RELIEF REQUESTED

10. By this Motion, the Debtors seek authority pursuant to sections 105(a), 363(b), 503(b) and 507(a)(2) of the Bankruptcy Code to enter into the Commitment Letter and incur related fees, expenses and indemnities in connection therewith, subject to the terms of the Commitment Letter.

BASIS FOR RELIEF REQUESTED

(A) Entering into the Commitment Letter Constitutes an Act of Good Business Judgment

11. Section 363(b) of the Bankruptcy Code provides, in relevant part, that a debtor “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). Under section 363(b), the debtor’s sale or use of property of the estate outside the ordinary course of business should be approved if there

is a sound business justification for the proposed transaction. *See In re Iridium Operating LLC*, 478 F.3d 452, 466 (2d Cir. 2007) (“In this Circuit, the sale of an asset of the estate under § 363(b) is permissible if the ‘judge determining [the] § 363(b) application expressly find[s] from the evidence presented before [him or her] at the hearing [that there is] a good business reason to grant such an application.’”) (*quoting Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983)). *See also Parker v. Motors Liquidation Co. (In re Motors Liquidation Co.)*, 430 B.R. 65, 83 (S.D.N.Y. 2010) (“The overriding consideration for approval [for a transaction performed under section 363(b) of the Bankruptcy Code] is whether a ‘good business reason’ has been articulated.”) (citation omitted).

12. Once a debtor has articulated a valid business justification under section 363, a presumption arises that the debtor’s decision was made on an informed basis, in good faith, and in the honest belief that the action was in the best interest of the debtors. *See Official Comm. of Sub. Bondholders v. Integrated Resources, Inc. (In re Integrated Resources, Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992), *appeal dismissed*, 3 F.3d 49 (2d Cir. 1993) (*quoting Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). Further, once “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.” *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).

13. As noted above, the Debtors require additional liquidity to maximize the value of their portfolio assets and to facilitate their expeditious and successful exit from Chapter 11. Although subject to certain contingencies, the Commitment Letter, if approved, will obligate Silver Point to use commercially reasonable efforts to complete due diligence and to negotiate

definitive documentation, thereby providing the Debtors with the potential to obtain approximately \$150 million of new financing. Importantly, the Commitment Letter also provides terms on which the debtor in possession financing could, at the Debtors' option, be converted into an exit facility in connection with the Debtors' emergence from Chapter 11 pursuant to a confirmed plan. Thus, the financing contemplated by the Commitment Letter will enable the Debtors to support Arcapita Group Investments, to pay necessary general and administrative expenses, and ultimately to obtain exit financing for the Debtors' emergence from Chapter 11.

14. Notably, the Debtors' obligation to pay a 1.5% commitment fee (\$2.25 million) to Silver Point is expressly contingent on Silver Point satisfying or waiving its due diligence condition and receiving credit committee approval for the Proposed Transaction. Thus, until Silver Point is in a position to make a binding commitment with no material "outs," the Debtors will not be obligated to pay Silver Point a full commitment fee. On the other hand, the Debtors will be obligated to reimburse Silver Point for its reasonable fees and expenses as Silver Point concludes its due diligence and negotiates definitive documentation. In addition, a fee of \$1.125 million (0.75% of the total \$150 million commitment) will be payable to Silver Point in the event that it is performing under the Commitment Letter and the Debtors exercise their "fiduciary out" to pursue an alternative transaction. In such a scenario, the Debtors submit, Silver Point will have clearly earned such a fee. Not only will Silver Point have invested substantial time, effort and resources performing due diligence and negotiating documentation, but, in part as a result of public disclosure of Silver Point's participation in the process and agreement effectively to act as a stalking horse, the Debtors will have received an offer for an alternative transaction that is so much better than the Silver Point transaction that the Debtors

would have been compelled to exercise their fiduciary out. Despite a rigorous financing marketing process, such an alternative more favorable, transaction is certainly not available today.

15. Courts have approved the payment of fees of this type as a sound exercise of business judgment when the transaction, as here, enables a debtor to secure financing at a price that the debtor believes is fair. *In re Lyondell Chemical Corp., et al.*, Case No. 09-10023 (REG) (Bankr. S.D.N.Y. Mar. 24, 2010) [Docket No. 4051] (authorizing the debtors to enter into certain agreements relating to exit financing); *In re Premier International Holdings Inc.*, Case No. 09-12019 (CSS) (Bankr. D. Del. Dec. 18, 2009) [Docket No. 1235] (approving payment of 5% commitment fee and expense reimbursement on a \$450 million rights offering proposed to fund the debtor's exit from bankruptcy).

16. Similarly, courts in this district have authorized payment of due diligence fees and expenses incurred by professionals for potential investors when the "reimbursement arrangement was 'in the best interests of the Debtors and all parties in interest.'" *In re Bethlehem Steel Corp.*, 2003 WL 21738964 at *12 (S.D.N.Y. July 28, 2003) (approving, under Bankruptcy Code section 363(b), professional fee reimbursement for union performing early stage plan negotiations with the debtor). As noted above, the financing contemplated under the Commitment Letter is in the best interests of the Debtors for a number of reasons. One of those reasons – that the reimbursement will support the plan process - is, indeed, a further justification for courts to approve reimbursement of fees and expenses. Here, as in *In re Chrysler*, the requested reimbursement not only has a "proper business justification" but also "has potential to lead toward confirmation of a plan and is not [designed] to evade the plan confirmation process."

In re Chrysler LLC, 405 B.R. 84, 96 (Bankr. S.D.N.Y. 2009) (approving an expedited sale proposal).¹²

17. After an exhaustive solicitation process, and for the reasons further set forth in the Rothschild Declaration, the Debtors believe the debtor in possession financing proposed by Silver Point in the Commitment Letter constitutes the best financing available with the least execution risk. Indeed, the solicitation process performed by the Debtors and Rothschild confirms that the Commitment Letter constitutes the best available financing at this time. *In re Boston Generating, LLC*, 440 B.R. 302, 325 (Bankr. S.D.N.Y. 2010) (“It is generally accepted . . . that absent a showing that there has been a clear market failure, the behavior in the marketplace is the best indicator of enterprise value.”) (citation omitted). However, if a better financing proposal becomes available, the Commitment Letter allows the Debtors to retain a “fiduciary out” to negotiate and consummate such more attractive financing. Commitment Letter § 8.

18. Finally, the Commitment Letter obligates the Debtors to provide an indemnity to Silver Point. It is typical for debtors in large chapter 11 cases to grant an indemnity to the debtor in possession financing provider similar to the ones described in the Commitment Letter. *See, e.g., In re The Great Atlantic & Pacific Tea Company, Inc., et al.*, Case No. 10-24549 (RDD) (Bankr. S.D.N.Y. Jan. 27, 2012) [Docket No. 3290] (approving indemnities required, along with other fees and expenses, under exit financing commitment letter); *In re Vertis Holdings, et al.*, Case No. 10-16170 (ALG) (Bankr. S.D.N.Y. Dec. 1, 2010)

¹² Courts have also held that, absent evidence of “self-dealing or manipulation among the parties who negotiated the reimbursement procedures” motions for reimbursement of fees and expenses should be approved. *In re ASARCO, L.L.C.*, 650 F.3d 593, 603 (5th Cir. 2011) (upholding bankruptcy court decision to prospectively approve payment of bidder’s due diligence fees). Courts are particularly inclined to approve expense reimbursement agreements, when such agreements will facilitate procedures that “maximize the value of [a debtor’s] estate.” *Id.*

[Docket No. 82] (approving indemnification in connection with exit financing commitment); *In re Journal Register Company, et al.*, Case No. 09-10769 (ALG) (Bankr. S.D.N.Y. June 5, 2009)

[Docket No. 420] (approving indemnities in favor of multiple parties under exit financing “work letters”).

(B) The Fees and Expenses Incurred Under the Commitment Letter Should Constitute Allowed Administrative Expenses Pursuant to Section 503(b) of the Bankruptcy Code

19. Section 503(b)(1)(A)(i) of the Bankruptcy Code provides that

(b) After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including –

(1)(A) the actual, necessary costs and expenses of preserving the estate

11 U.S.C. § 503(b)(1)(A)(i). Payment of the fees and expenses set forth in the Commitment Letter (which incorporates the Fee Letter) are each necessary to persuade Silver Point to enter into the Proposed Transaction. As proposed, in the event such fees or expenses become payable under the terms of the Commitment Letter and are not paid, such expenses should be an allowed administrative expense of the Debtor Obligors’ estates. *In re Chemtura Corp., et al.*, Case No. 09-11233 (REG) (Bankr. S.D.N.Y. Aug. 9, 2010) [Docket No. 3536] (“The Debtors’ Pre-Closing Exit Financing Obligations are actual, necessary costs and expenses of preserving these estates and shall be treated as allowed administrative expenses under section 503(b) of the Bankruptcy Code”).

20. Silver Point has already invested and, if the Commitment Letter is approved, will continue to invest considerable resources in the negotiation and documentation of the Proposed Transaction which will prevent the significant value deterioration that the Debtors and their stakeholders would be forced to bear if the Debtors were unable to obtain sufficient

liquidity to support their assets and consummate an orderly exit from chapter 11. This more than justifies providing Silver Point an administrative expense claim for its reasonable and actual fees and expenses, as well as, to the extent applicable, its 0.75% Commitment Fee if an alternative transaction is pursued. *In re Metaldyne Corp.*, 409 B.R. 661, 670 (Bankr. S.D.N.Y. 2009) (authorizing the debtors to provide bid protections because, among other things, “the stalking horse bid brings value to the estate by setting a floor on the price and providing a structure for potential competing bids”); *In re 995 Fifth Ave. Assocs., L.P.*, 96 B.R. 24, 28 (Bankr. S.D.N.Y. 1989) (bidding protections may be “legitimately necessary to convince a white knight to enter the bidding by providing some form of compensation for the risks it is undertaking”). Courts approve break-up fees where, as here: (i) the relation between the debtor and the bidder receiving the fee is not tainted by self-dealing; (ii) the break-up fee does not impair bidding; and (iii) the size of the fee is reasonable in relation to the size of the transaction. *See In re Integrated Res., Inc.*, 147 B.R. 650, 657 (S.D.N.Y. 1992). There is no evidence of self-dealing here and the size of the break-up fee, less than 1% of the proposed financing, will not impair bidding and is eminently reasonable. The negotiations here were at arms’ length and were performed after a rigorous solicitation process. Parkhill Declaration ¶ 21.

(C) Summary

21. In light of the foregoing, the Debtors submit that they should be authorized to enter into the Commitment Letter, and that Silver Point should receive the payment of fees and expenses associated therewith as set forth therein and in the Fee Letter.

NOTICE

22. No trustee or examiner has been appointed in the Chapter 11 Cases. The Debtors have provided notice of filing of the Motion by electronic mail, facsimile and/or overnight mail to: (i) the Office of the United States Trustee for the Southern District of New

York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); (ii) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis F. Dunne, Esq., Abhilash M. Raval, Esq., and Evan R. Fleck, Esq.), counsel for the Committee; (iii) White & Case LLP, 1155 Avenue of the America, New York, NY 10036-2787 (Attn: Scott Greissman, Esq. and Andrew Zatz, Esq.), counsel to Silver Point; 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, at www.gcginc.com/cases/arcapita.

NO PRIOR REQUEST

23. No prior application for the relief requested herein has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of an Order substantially similar to the Proposed Order annexed hereto as **Exhibit A**, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
September 25, 2012

/s/ Michael A. Rosenthal
Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew Williams (MW-4081)
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

EXHIBIT A
PROPOSED 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

**ORDER AUTHORIZING THE DEBTORS TO ENTER INTO
A FINANCING COMMITMENT LETTER AND INCUR
RELATED FEES, EXPENSES AND INDEMNITIES**

Upon the Motion (the “*Motion*”)¹ of the debtors in possession in the above-captioned case (collectively, the “*Debtors*” and each, a “*Debtor*”) for an order pursuant to sections 105(a), 363(b), 503(b) and 507(a) of title 11 of the United States Code (the “*Bankruptcy Code*”) authorizing the Debtors to (i) enter into the Commitment Letter and (ii) pay the related fees and expenses, including any associated Indemnity costs, this Court finds and concludes 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 Debtors have demonstrated that their entry into the Motion and payment of related fees and expenses, including under the Indemnity, comprise an exercise of sound business judgment under section 363(b)(1) of the Bankruptcy Code; (d) payment of the Commitment Fee, the Expense Reimbursement and the Indemnity provides a benefit to the Arcapita estates necessary to preserve the value of the Debtors’ assets; (e) the legal and factual bases set forth in the Motion and on the record at the hearing establish just cause for the relief granted herein; (f) the relief requested in the Motion is in the best interests of the Debtors, the

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

estates and their creditors; and (g) notice of the Motion was sufficient, and no other or further notice need be provided.

Based upon the above findings and conclusions, and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent provided herein.
2. The Commitment Letter and all fee, expense and exclusivity provisions set forth therein are approved in their entirety.
3. The Debtors are authorized to pay the Commitment Fee and related fees and expenses, on the terms and conditions set forth in the Commitment Letter and the Fee Letter, without notice, hearing or further order of the Court as, when and to the extent they become due under the Commitment Letter and the Fee Letter.
4. The Debtors are authorized to provide the Indemnity on the terms and conditions set forth in the Commitment Letter, without notice, hearing or further order of the Court as, when and to the extent it becomes due and payable under the terms of the Commitment Letter.
5. Subject to the foregoing, the Debtors are authorized to provide the Expense Reimbursement as provided in section 6 of the Commitment Letter upon delivery of reasonably detailed invoices to the Debtors (which invoices shall include a description of the work performed, the individuals who performed such work and the hourly rate of such individuals, plus an itemized statement of expenses), first, from the Expense Deposit, as defined in and as set forth in Section 8 of the *Order Approving Expense Reimbursement in Connection with Prospective Post-Petition Financing* [Docket No. 500].

6. The Debtors are authorized to restore the Expense Deposit after it has been applied to the extent required under the Commitment Letter and the Fee Letter.

7. The Debtors shall promptly furnish any invoices received from Silver Point to Committee counsel (the “*Committee Notice*”).

8. Notwithstanding the foregoing, prior to payment of any Expense Reimbursement, the Committee and the Debtors shall have three days (the “*Notice Period*”) after Committee counsel’s receipt of the Committee Notice to review the subject invoice or invoices and serve the Debtors and Silver Point with notice of any objection setting forth the amount of costs or expenses to which the Committee or the Debtors, as applicable, objects (the “*Disputed Costs or Fees*”).

9. At the expiration of the Notice Period in respect of a particular invoice or invoices, the Debtors are authorized promptly to reimburse Silver Point for reasonable and actual costs and expenses subject of such invoice or invoices, excluding any Disputed Costs or Fees.

10. If the Committee or the Debtors object to an Expense Reimbursement within the Notice Period, such objection shall be resolved by (a) the Committee and the Debtors or (b) the Court, in either case, prior to any payment of the Disputed Costs or Fees subject to such objection.

11. The Commitment Fee, the Expense Reimbursement, the related fees and expenses and the Indemnity, to the extent payable under the Commitment Letter and this Order, are actual, necessary costs and expenses of preserving the Debtor Obligors’ estates and shall be treated as all owed administrative priority claim against the Debtor Obligors under sections 503(b) and 507(a)(2) of the Bankruptcy Code.

12. The Debtors are authorized to take all actions reasonably necessary to effectuate the relief granted in this Order in accordance with the Motion.

13. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

14. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

Dated: _____, 2012

New York, New York

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

101372297.4

EXHIBIT B
COMMITMENT LETTER

SILVER POINT FINANCE, LLC
2 Greenwich Plaza
Greenwich, CT 06830

CONFIDENTIAL

September 25, 2012

Arcapita Bank B.S.C.(c)
c/o Bernard Douton
Rothschild Inc.
1251 Avenue of the Americas
New York, NY 10022
bernard.douton@rothschild.com

\$150,000,000 Murabaha Debtor-In-Possession Facility
Commitment Letter

Ladies and Gentlemen:

You have advised Silver Point Finance, LLC (“Silver Point”, “we” or “us”) that you have filed separate voluntary petitions for yourself and certain of your subsidiaries (excluding Falcon Gas Storage Company, Inc., the “Company”)¹ for reorganization under Chapter 11 of the U.S. Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), Case No. 12-11076 (the “Chapter 11 Cases”) and that you will require a Shari’ah-compliant term Murabaha debtor-in-possession facility (the “Murabaha DIP Facility”) in order to finance the Company’s operations, including on-going operating costs, general corporate purposes, certain investment deal fundings, and bankruptcy-related costs during the Company’s chapter 11 proceedings. Capitalized terms used but not defined herein shall have the meaning assigned to such term in the Murabaha DIP Facility term sheet (“Murabaha DIP Term Sheet”) attached hereto as Exhibit A.

This Commitment Letter (defined below) and the Murabaha DIP Term Sheet describe terms and conditions under which Silver Point currently would propose to provide to the Company \$150,000,000 (the “Facility Amount”) under the Murabaha DIP Facility.

Please note that those matters that are not covered or made clear herein, in the Murabaha DIP Term Sheet or the related fee letter of even date herewith (the “Fee Letter”) are subject to mutual agreement of the parties hereto.

¹ The exclusion of Falcon Gas Storage Company, Inc. and any non-Debtor affiliates remains subject to due diligence.

1. Commitments.

In connection with the foregoing, Silver Point is pleased to advise you of its commitment to provide 100% of the commitments under the Murabaha DIP Facility, upon the terms and subject to the conditions set forth or referred to in this commitment letter (together with the Murabaha DIP Term Sheet, this "Commitment Letter") and in the Fee Letter. Silver Point agrees to conduct its due diligence under Section 5(a) below and to negotiate Definitive Financing Documentation (as defined in Exhibit B hereto) in a commercially reasonable manner after the entering of an order in form and substance reasonably acceptable to Silver Point by the Bankruptcy Court approving Sections 6 and 8 this Commitment Letter and Sections 1(a) and 1(b) of the Fee Letter; provided that, if Silver Point determines in good faith that the Company will not be required to reimburse it for fees and expenses due pursuant to the conditions set forth in Section 6 below, Silver Point shall not be required to continue such due diligence or negotiate Definitive Financing Documentation.

2. Titles and Roles.

Silver Point shall have the right (in consultation with you) to award such roles or titles as may be reasonably determined by Silver Point, to one or more other banks, financial institutions and other institutional lenders or affiliates thereof (together the "Participants"), in each case as determined by Silver Point. You agree that, except as contemplated above, no other agents, co-agents or arrangers will be appointed, no other titles will be awarded and no compensation (other than that expressly contemplated by this Commitment Letter and Definitive Financing Documentation) will be paid in connection with the Murabaha DIP Facility, unless you and we shall so agree.

3. Additional Participants.

In our sole discretion, we may commence our efforts to bring in additional Participants with respect to the Murabaha DIP Facility promptly upon your execution and delivery to us of this Commitment Letter. Timing for this, potential Participants to be approached, titles, allocations and division of fees, shall be determined by (and coordinated exclusively through) Silver Point in consultation with you. You agree actively to assist us in this process in a manner that is reasonably satisfactory to us.

4. Information.

You represent, warrant and covenant that (a)(i) no information which has been or is hereafter furnished by you or on your behalf in connection with the Murabaha DIP Facility including, without limitation, information provided in response to the diligence requests set forth on Exhibit C hereto and other confirmatory due diligence (other than the estimates, forecasts, projections and other forward-looking financial information regarding the future performance of the Company (collectively, the "Projections")) and (ii) no other information supplied or approved by you or on your behalf (other than the Projections) (such written information and other information being referred to herein collectively as the "Information"), taken as a whole contained (or, in the case of Information furnished after the date hereof, will contain), as of the time it was (or hereafter is) furnished, any material misstatement of fact or omitted (or will omit) as of such time to state any material fact necessary to make the statements therein taken as a

whole not misleading, in the light of the circumstances under which they were (or hereafter are) made and (b) the Projections that have been or will be made available to us by you or any of your representatives have been or will be prepared in good faith based upon assumptions that you believe to be reasonable at the time made and at the time such Projections are made available to us, it being recognized by the Participants and Silver Point that such Projections are not to be viewed as facts and that actual results during the period or periods covered by any such Projections may differ significantly from the projected results, and that no assurance can be given that the projected results will be realized. You understand that, in arranging the Murabaha DIP Facility, we will be entitled to use and rely on the Information and the Projections without responsibility for independent verification thereof.

5. Conditions Precedent.

Silver Point's agreement to provide commitments and agreements described herein, is subject to:

(a) Silver Point's completion of its business, legal, tax, financial, and accounting due diligence with respect to the Murabaha DIP Facility and the Company including, without limitation, due diligence with regards to the high priority matters as set forth on Exhibit C hereto and confirmatory due diligence, in each case, to Silver Point's full satisfaction with the results thereof;

(b) approval of this Commitment Letter and the Murabaha DIP Facility by Silver Point's credit committee;

(c) Silver Point not becoming aware (whether as a result of its due diligence analyses and review or otherwise), after Silver Point has notified you in writing that the conditions precedent set forth in Sections 5(a) and 5(b) above have been satisfied, of any information not previously known to Silver Point which is materially negative information with respect to the property, assets, business, operations, liabilities, condition (financial or otherwise) or prospects of the Company, or which is inconsistent in a material and adverse manner with any such information or other matter disclosed to Silver Point prior to the satisfaction of the conditions precedent set forth in Sections 5(a) and 5(b) above;

(d) your written acceptance of, and compliance with, the terms and conditions, of the Fee Letter and pursuant to which you agree to pay, or cause to be paid, to Silver Point certain fees and expenses and to fulfill certain other obligations including the reimbursement of expenses as provided in this Commitment Letter;

(e) the other conditions set forth or referred to in the Murabaha DIP Term Sheet or, when executed, the Definitive Financing Documentation;

(f) the Company having cooperated with Silver Point in arranging the Murabaha DIP Facility, including, without limitation, by promptly providing Silver Point with all information reasonably deemed necessary by it in order to bring in additional Participants; and

(g) satisfaction of the conditions precedent set forth on Exhibit B hereto.

6. Expenses; Indemnification.

To induce Silver Point to issue this Commitment Letter and to proceed with the Definitive Financing Documentation, you hereby agree that all reasonable and documented fees and expenses (including the reasonable and documented fees and expenses of counsel and consultants) of Silver Point and its affiliates arising in connection with this Commitment Letter and the Murabaha DIP Facility and the preparation, negotiation, execution, delivery and enforcement of this Commitment Letter, the Fee Letter and the Definitive Financing Documentation (including in connection with our due diligence and syndication efforts), whether incurred before, on, or after the date hereof, shall be for your account (and that you shall, on demand, reimburse Silver Point and its affiliates for any reasonable and documented out-of-pocket outstanding and unreimbursed fees and expenses paid or incurred by them), whether or not the Murabaha DIP Facility is made available or the Definitive Financing Documentation is executed. Notwithstanding anything set forth herein, until Silver Point has notified you that the conditions precedent set forth in Sections 5(a) and 5(b) below have been satisfied, your obligation to reimburse the reasonable and documented fees and expenses of Silver Point shall be subject to a cap of \$900,000. You further, jointly and severally, agree to indemnify and hold harmless Silver Point, each Participant, and their respective affiliates and each director, officer, employee, representative and agent thereof (each, an "Indemnified Person") from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever which may be incurred by or asserted against or involve Silver Point, any Participant or any other such Indemnified Person as a result of or arising out of or in any way related to or resulting from (i) this Commitment Letter, the Definitive Financing Documentation, or any related transaction or (ii) the use or the contemplated use of the proceeds of the Murabaha DIP Facility and, upon demand, to pay and reimburse Silver Point, each Participant and each other Indemnified Person for any reasonable legal or other out-of-pocket expenses paid or incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding (including any inquiry or investigation) or claim (whether or not Silver Point, any Participant or any other such Indemnified Person is a party to any action or proceeding out of which any such expenses arise or such matter is initiated by a third party or by you or any of your affiliates); provided, however, that you shall not have to indemnify any Indemnified Person against any loss, claim, damage, expense or liability (a) to the extent same resulted from the gross negligence or willful misconduct of such Indemnified Person (as determined by a court of competent jurisdiction in a final and non-appealable judgment), (b) for any disputes solely among Indemnified Persons and not arising out of any act or omission of you or any of your subsidiaries or affiliates (other than any proceeding against any Indemnified Person fulfilling its role as agent or any similar role under the Murabaha DIP Facility) or (c) for a material breach of the obligations of such Indemnified Person (or any of such Indemnified Person's controlled affiliates or any of its or their respective officers, directors, employees, agents, controlling persons or members) under this Commitment Letter. Neither Silver Point nor any other Indemnified Person shall be responsible or liable to you or any other person or entity for (x) any determination made by it pursuant to this Commitment Letter in the absence of gross negligence or willful misconduct on the part of such person or entity (as determined by a court of competent jurisdiction in a final and non-appealable judgment), (y) any damages arising from the use by others of information or other materials obtained through electronic, telecommunications or other information transmission systems or (z) any indirect, special, exemplary, incidental, punitive or consequential

damages (including, without limitation, any loss of profits, business or anticipated savings) which may be alleged as a result of this Commitment Letter or the financing contemplated hereby.

7. Sharing Information; Absence of Fiduciary Relationship; Affiliate Activities.

Silver Point reserves the right to employ the services of its affiliates in providing the commitments and/or the services contemplated by this Commitment Letter and to allocate, in whole or in part, to its affiliates certain fees payable to Silver Point in such manner as Silver Point and its affiliates may agree in their sole discretion. You acknowledge that (i) Silver Point may share with any of its affiliates, and such affiliates may share with Silver Point, any information related to the Company, or any of the matters contemplated hereby and (ii) Silver Point and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which you may have conflicting interests regarding the transactions described herein or otherwise. Silver Point will not, however, furnish confidential information obtained from you by virtue of the transactions contemplated by this Commitment Letter, the Fee Letter or its other relationships with you to other companies (other than your and affiliates). You also acknowledge that Silver Point has no obligation to use in connection with the transactions contemplated by this Commitment Letter, or to furnish to you, confidential information obtained by it from other companies.

You further acknowledge and agree that (a) no fiduciary, advisory or agency relationship between you and us is intended to be or has been created in respect of any of the transactions contemplated by this Commitment Letter, irrespective of whether we or our affiliates have advised or are advising you on other matters, (b) we, on the one hand, and you, on the other hand, have an arms-length business relationship that does not directly or indirectly give rise to, nor do you rely on, any fiduciary duty on our part, (c) you are capable of evaluating and understanding, and you understand and accept, the terms, risks and conditions of the transactions contemplated by this Commitment Letter, (d) you have been advised that we and our affiliates are engaged in a broad range of transactions that may involve interests that differ from your interests and that we and our affiliates have no obligation to disclose such interests and transactions to you by virtue of any fiduciary, advisory or agency relationship, and (e) you waive, to the fullest extent permitted by law, any claims you may have against us or our affiliates for breach of fiduciary duty or alleged breach of fiduciary duty with respect to the Murabaha DIP Facility and agree that we and our affiliates shall have no liability (whether direct or indirect) to you in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of you, including your stockholders, employees or creditors.

8. Exclusivity.

You acknowledge and agree that Silver Point has been appointed exclusively to provide and arrange the Murabaha DIP Facility and that the syndication of the Murabaha DIP Facility could be adversely affected if you or any of your affiliates raises, or attempts to raise, other financing prior to the Murabaha DIP Closing Date.

Save as set out below, from the date of acceptance of this Commitment Letter to the Murabaha DIP Closing Date or the termination of this Commitment Letter, you agree that you will not (and will ensure that none of your affiliates, agents, professionals or other

representatives will) directly or indirectly raise or attempt to raise any debt financing (including debtor-in-possession financing or any similar transaction) or debt security to be syndicated, issued or privately placed by or on behalf of you or any of your affiliates (and there shall be no announcement, negotiations or discussion of, or any attempt to effect, any such syndication, issue or placement) other than to or with Silver Point or with the prior written consent of Silver Point.

In all events, the agreements in this Section 8 shall not prevent the Company's board of directors (or its equivalent, the "Board") from receiving any unsolicited proposal for debtor-in-possession financing or similar transaction during the Chapter 11 Cases from a third party and negotiating such proposal with a third party and providing due diligence information regarding the Company to such third party if the Board, on advice of its financial and legal advisors, determines (a "Determination") that doing so is reasonably required to comply with its fiduciary duties to the Company; provided that, in the event the Board or the Company receives any proposal, you shall promptly notify Silver Point of such receipt, and promptly deliver to Silver Point copies of all such proposal documents and summaries of any and all oral and other communications between the Company or the Board, on the one hand, and the proposed counterparty under such debtor-in-possession financing or similar transaction on the other, and cooperate with Silver Point in its reasonable requests for further information and communications regarding such proposal; and provided further that if the Company or the Board makes a Determination, (i) the Company shall immediately notify Silver Point in writing, and (ii) (a) Silver Point may thereafter terminate this Commitment Letter at any time and (b) the Company may terminate this Commitment Letter at any time if it has sought Bankruptcy Court approval to execute definitive documentation regarding a fully-financed, alternative debtor-in-possession financing or similar transaction from a creditworthy counterparty not subject to due diligence or credit committee approval if the Board has determined based upon advice of financial & legal advisors that termination of this Commitment Letter under such circumstance is reasonably required for the Board to comply with its fiduciary duties to the Company, in which case, under the circumstances of either of the immediately preceding clauses (a) or (b), the expense reimbursement described in Section 6 of this Commitment Letter and the portion of the Commitment Fee described in clause (y) of paragraph 1(b) of the Fee Letter will be payable immediately in cash on the date Silver Point or the Company terminates this Commitment Letter, provided, that, with respect to the portion of the Commitment Fee described in clause (y) of paragraph 1(b) of the Fee Letter, if the Company determines (acting reasonably) that it has insufficient funds on hand to immediately pay such portion of the Commitment Fee in cash, such amount shall be payable on the date of the closing of such alternative debtor-in-possession financing or other similar transaction, with the first proceeds of such financing or other transaction, and, in any event, for the avoidance of doubt, any accrued and/or earned but unpaid amounts hereunder or under the Fee Letter payable to Silver Point shall have administrative expense priority status in the Chapter 11 Cases of the Debtor Obligors pursuant to section 503(b)(1) of the Bankruptcy Code.

9. Confidentiality.

This Commitment Letter is delivered to you on the understanding that neither this Commitment Letter nor the Fee Letter nor any of their terms or substance shall be disclosed, directly or indirectly, by you to any other person or entity except (a) to your affiliates, officers, directors, employees, attorneys, accountants and advisors who are directly involved in the

consideration of this matter and on a confidential and need-to-know basis or (b) as required by applicable law or compulsory legal process or in connection with any pending legal proceeding (in which case you agree, to the extent permitted by applicable law, to inform us promptly thereof) or regulatory review; provided that you may disclose this Commitment Letter and the contents hereof (but you may not disclose the contents of the Fee Letter) to any rating agencies or pursuant to any public filings which in the opinion of your counsel are required pursuant to applicable law. Notwithstanding the foregoing, you shall be permitted, with prior notice to Silver Point, to furnish a copy of this Commitment Letter and the Fee Letter to any committee appointed in the Chapter 11 Case, the joint provisional liquidators appointed in the Cayman Island proceedings of Arcapita Investment Holdings Limited (the “Joint Provisional Liquidators”), the Office of the United States Trustee and such other parties in interest as may be necessary to obtain the required Bankruptcy Court approvals of the Murabaha DIP Facility and the agreements and obligations related thereto, in all cases on a confidential basis. You may file this Commitment Letter with the Bankruptcy Court and to the court overseeing the Cayman Island proceedings of Arcapita Investment Holdings Limited; you may also file the Fee Letter under seal with either court and may disclose the aggregate fees thereunder, as well as the portion of the Commitment Fee described in clause (y) of section 1(b) of the Fee Letter, on the record in either proceeding.

Silver Point and its affiliates will use all confidential information provided to it or such affiliates by or on behalf of you hereunder solely for the purpose of providing the commitments and services which are the subject of this Commitment Letter and shall treat confidentially all such information and this Commitment Letter and the Fee Letter (and the respective terms and substance set forth herein and therein); provided that nothing herein shall prevent Silver Point from disclosing any such information (a) pursuant to the order of any court or administrative agency or in any pending legal or administrative proceeding, or otherwise as required by applicable law or compulsory legal process (in which case Silver Point, to the extent permitted by law, agrees to inform you promptly thereof), (b) upon the request or demand of any regulatory authority having jurisdiction over Silver Point or any of its affiliates, (c) to the extent that such information becomes publicly available other than by reason of improper disclosure by Silver Point or any of its affiliates, (d) to the extent that such information is received by Silver Point from a third party that is not to its knowledge (after due inquiry) subject to confidentiality obligations to you, (e) to the extent that such information is independently developed by Silver Point without the use of confidential information, (f) to Silver Point’s affiliates and their respective employees, legal counsel, independent auditors and other experts or agents who need to know such information and are informed of the confidential nature of such information and without the use of confidential information, (g) to potential Participants or assignees or any potential counterparty (or its advisors) to any swap or derivative transaction relating to the Company or any of its affiliates or any of their respective obligations, in each case who agree in writing to be bound by the terms of this paragraph (or language substantially similar to this paragraph), (h) to the Bankruptcy Court for approval of this Commitment Letter, the Fee Letter and the Murabaha DIP Facility; provided further that such Confidential Information is filed under seal or to any other court of competent jurisdiction for purposes of establishing a “due diligence” defense, provided such information is filed under seal. Silver Point’s obligations under this paragraph shall automatically terminate and be superseded by the confidentiality provisions in the Definitive Financing Documentation upon the Murabaha DIP Closing Date.

Silver Point shall have the right to review and approve any public announcement or public filing made by you or your representatives relating to the Murabaha DIP Facility or in connection therewith, before any such announcement or filing is made (such approval not to be unreasonably withheld or delayed). Silver Point shall also have the right to review and approve any public announcement or public filing made by you or your representatives relating to Silver Point before any such announcement or filing is made (such approval not to be unreasonably withheld or delayed).

10. Assignments; Etc.

This Commitment Letter (and your rights and obligations hereunder) shall not be assignable by you without the prior written consent of Silver Point (and any attempted assignment without such consent shall be null and void), is intended to be solely for the benefit of the parties hereto (and Indemnified Persons), is not intended to confer any benefits upon, or create any rights in favor of, any person other than the parties hereto (and Indemnified Persons) and may not be relied upon by any person or entity other than you.

Silver Point shall not assign its rights hereunder absent the prior written consent of the Company (and any attempted assignment without such consent shall be null and void); provided that such consent shall not be unreasonably withheld and any and all commitments and other obligations of, and services to be provided by Silver Point hereunder may be performed, and any and all rights of Silver Point hereunder may be exercised, by or through any of its affiliates or branches.

11. Amendments; Governing Law; Etc.

This Commitment Letter and the Fee Letter may not be amended or modified, or any provision hereof waived, except by an instrument in writing signed by you and Silver Point. This Commitment Letter and the Fee Letter may be executed in any number of counterparts, each of which shall be an original and all of which, when taken together, shall constitute one agreement. Delivery of an executed signature page of this Commitment Letter or the Fee Letter by facsimile (or other electronic) transmission shall be effective as delivery of a manually executed counterpart hereof. Section headings used herein and in the Fee Letter are for convenience of reference only, are not part of this Commitment Letter or the Fee Letter, as the case may be, and are not to affect the construction of, or to be taken into consideration in interpreting, this Commitment Letter or the Fee Letter, as the case may be. You acknowledge that information and documents relating to the Murabaha DIP Facility may be transmitted through Intralinks, the internet, email or similar electronic transmission systems, and that Silver Point shall not be liable for any damages arising from the use by others of information or documents transmitted in such manner. Silver Point may, in consultation with you, place customary advertisements in financial and other newspapers and periodicals or on a home page or similar place for dissemination of customary information on the Internet or worldwide web as it may choose, and circulate similar promotional materials, after the Murabaha DIP Closing Date in the form of a “tombstone” or otherwise describing the names of the Company and its affiliates (or any of them), and the amount, type and closing date of the transactions contemplated hereby, all at the expense of Silver Point. This Commitment Letter and the Fee Letter set forth the entire agreement between the parties hereto as to the matters set forth herein and supersedes all prior understandings, whether written or oral, between us with respect to the matters herein. Matters

that are not covered or made clear in this Commitment Letter or in the Fee Letter are subject to mutual agreement of the parties hereto. **THIS COMMITMENT LETTER AND THE FEE LETTER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF, TO THE EXTENT THAT THE SAME ARE NOT MANDATORILY APPLICABLE BY STATUTE AND WOULD REQUIRE OR PERMIT THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION).**

12. Jurisdiction.

Each of the parties hereto hereby irrevocably and unconditionally (a) submits, for itself and its property, to the exclusive jurisdiction of any New York State court or Federal court of the United States of America sitting in the County of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Commitment Letter or the transactions contemplated hereby, or for recognition or enforcement of any judgment, and agrees that all claims in respect of any such action or proceeding may be heard and determined only in such courts located within New York County, provided, however, that Silver Point shall be entitled to assert jurisdiction over you and your property in any court in which jurisdiction may be laid over you or your property, (b) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Commitment Letter, the Fee Letter or the transactions contemplated hereby or thereby in any New York State or Federal court, as the case may be, (c) waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court and (d) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Service of any process, summons, notice or document by registered mail or overnight courier addressed to you at the address above shall be effective service of process against you for any suit, action or proceeding brought in any such court.

13. Waiver of Jury Trial.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, SUIT, CLAIM OR COUNTERCLAIM BROUGHT BY OR ON BEHALF OF ANY PARTY RELATED TO OR ARISING OUT OF THIS COMMITMENT LETTER, THE FEE LETTER OR THE PERFORMANCE OF SERVICES HEREUNDER OR THEREUNDER.

14. Surviving Provisions.

The provisions of Sections 2, 6, 7, 9, 10, 11 and 12 of this Commitment Letter shall remain in full force and effect regardless of whether Definitive Financing Documentation shall be executed and delivered and notwithstanding the termination of this Commitment Letter and our agreements to provide commitments and perform the services described herein; provided that your obligations under this Commitment Letter, other than those provisions relating to confidentiality and the payment of agency fees to Silver Point as provided in the Fee Letter, shall automatically terminate and be superseded by the Definitive Financing Documentation upon the

initial funding thereunder and the payment of all amounts owing at such time hereunder and under the Fee Letter. The provisions of Sections 6, 7, 9, 10, 11, 12, 13 and 14 of this Commitment Letter shall survive the expiration or termination of this Commitment Letter regardless of whether Definitive Financing Documentation shall be executed and delivered.

15. PATRIOT Act Notification.

Silver Point hereby notifies you that pursuant to the requirements of the USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the "PATRIOT Act"), Silver Point is required to obtain, verify and record information that identifies the Company under the Murabaha DIP Facility, which information includes the name, address, tax identification number and other information regarding the Company that will allow Silver Point to identify the Company in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act and is effective as to Silver Point and each Participant.

16. Termination and Acceptance.

To the extent the transactions contemplated herein have not been consummated, (x) Silver Point shall have the right to terminate its agreement to provide commitments and perform the services described herein by giving written notice to you (without further action or notice and without further obligation to you) any time after the later of (a) October 15, 2012 or (b) 21 days after the Company has been notified in writing that the conditions precedent set forth in Sections 5(a) and 5(b) above have been satisfied; provided that, in no case may Silver Point terminate if such failure to meet one of the foregoing deadlines is a sole and direct consequence of Silver Point's material breach of its material obligations hereunder, and (y) you have the right to terminate this Commitment Letter by giving written notice to Silver Point (without further action or notice and without further obligation to Silver Point) if Silver Point is in material breach of its material obligations hereunder.

If the foregoing correctly sets forth our agreement with you, please indicate your acceptance of the terms of this Commitment Letter by returning to us executed counterparts hereof and of the Fee Letter and providing the Expense Deposit (as defined therein) not later than 11:59 P.M., New York City time, on September 25, 2012. Silver Point's agreement to provide commitments and perform the services described herein, will expire automatically (and without further action or notice and without further obligation to you) at such time in the event that we have not received such executed counterparts in accordance with the immediately preceding sentence.

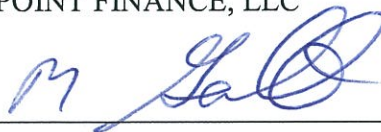
[Remainder of this page intentionally left blank]

We are pleased to have been given the opportunity to assist you in connection with this important financing.

Very truly yours,

SILVER POINT FINANCE, LLC

By: _____

A handwritten signature in blue ink, appearing to be 'M. Gallo', is written over a horizontal line.

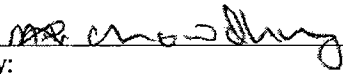
Name:

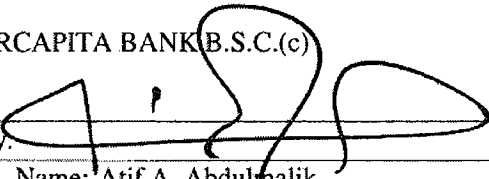
Title:

Signature Page to Commitment Letter


Accepted and agreed to as of
the date first above written:

ARCAPITA INVESTMENT HOLDINGS
LIMITED



By: _____
Name: Mohammed Chowdhury
Title: Director

ARCAPITA BANK (B.S.C.(c))

By: _____
Name: Atif A. Abdulmalik
Title: Chief Executive Officer

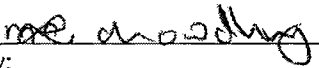
ARCAPITA LT HOLDINGS LIMITED


By: _____
Name: Mohammed Chowdhury
Title: Director

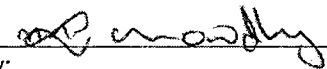
WINDTURBINE HOLDINGS LIMITED


By: _____
Name: Mohammed Chowdhury
Title: Director

AEID II HOLDINGS LIMITED


By: _____
Name: Mohammed Chowdhury
Title: Director

RAILINVEST HOLDINGS LIMITED


By: _____
Name: Mohammed Chowdhury
Title: Director

Signature Page to Commitment Letter

MURABAHA DIP FACILITY TERM SHEET

Purchaser	<ul style="list-style-type: none"> ▪ Arcapita Investment Holdings Limited (“<u>AIHL</u>”), as a obligor and purchaser under the Murabaha DIP Facility and debtor-in-possession in the Chapter 11 Cases (defined below)
Guarantors	<ul style="list-style-type: none"> ▪ Arcapita Bank B.S.C.(c) (“<u>Arcapita</u>”), each of AIHL’s subsidiaries (other than Falcon Gas Storage Company, Inc.)² that is a debtor and debtor-in-possession (the “<u>Subsidiary Debtors</u>” and, together with AIHL, the “<u>Debtors</u>”) in the chapter 11 cases pending in the U.S. Bankruptcy Court for the Southern District of New York, Case No. 12-11076 (the “<u>Chapter 11 Cases</u>”), Arcapita Investment Management Limited (“<u>AIML</u>”), Arcapita Inc., Arcapita Structured Finance Ltd, Arcapita Investment Funding Limited, Arcapita Industrial Management I Ltd, Arcapita Limited and Arcapita Pte. Limited (Singapore) (collectively with the Subsidiary Debtors, the “<u>Guarantors</u>” and, collectively with the Debtors, the “<u>Obligors</u>”) ³, <u>provided</u> that the guarantee will be structured to avoid unreasonably material interference with the EuroLog IPO [(to be defined)]⁴.
Investment Agent	<ul style="list-style-type: none"> ▪ Silver Point Finance, LLC (“<u>Silver Point</u>”) or an affiliate or designee thereof, as investment agent on behalf of the Participants (in such capacity, the “<u>Investment Agent</u>”)
Participants	<ul style="list-style-type: none"> ▪ The Investment Agent and the banks and financial institutions that from time to time become

² These subsidiaries are: (i) Arcapita LT Holdings Limited (“ALTHL”); (ii) WindTurbine Holdings Limited (“WTHL”); (iii) AEID II Holdings Limited (“AEID II”); and (iv) RailInvest Holdings Limited (“RailInvest”). The exclusion of Falcon Gas Storage Company, Inc. and any non-Debtor affiliates remains subject to due diligence.

³ Other non-Debtor affiliates to be included as Obligors if Silver Point deems them material and if granting such entities’ assets as collateral is not prohibitive or unreasonable.

⁴ Subject to due diligence.

	party to the Investment Agency Agreement
Murabaha DIP Facility	<ul style="list-style-type: none"> A senior secured debtor in possession US Dollar term Murabaha facility (the “<u>Murabaha DIP Facility</u>”) made available by the Investment Agent in an aggregate amount up to US\$150,000,000 for general corporate purposes in accordance with a rolling 13-week budget reasonably satisfactory to the Participants and for the other purposes listed under “Use of Proceeds” below (the “<u>Budget</u>”).⁵
Murabaha DIP Commitment Letter	<ul style="list-style-type: none"> Silver Point and the Obligors have executed that certain \$150,000,000 Murabaha Debtor-In-Possession Facility Commitment Letter dated September 25, 2012 (the “<u>Murabaha DIP Commitment Letter</u>”)
Investment Agency Agreement	<ul style="list-style-type: none"> Agreement to be entered into by AIHL, the Guarantors, the Investment Agent, the Participants and others by which the Participants, among other things, appoint the Investment Agent as their agent to enter into the Murabaha Transactions contemplated by the Murabaha DIP Facility
Murabaha Transactions	<ul style="list-style-type: none"> Each transaction involves the sale by the Investment Agent (on behalf of the Participants) of Commodities specified by AIHL pursuant to Purchase Contracts. Under each Purchase Contract and the Murabaha DIP Facility, AIHL is obliged to pay the Deferred Sale Price for the Commodities.
Murabaha WCF Entities	<ul style="list-style-type: none"> Certain of those Cayman Islands WCF entities owned by AIHL and used for making Murabaha investments in the Debtors’ portfolio companies (collectively, the “<u>Murabaha WCF Entities</u>”)
Commodities	<ul style="list-style-type: none"> In relation to a Purchase Contract, the Shari’ah-compliant commodities as specified in the transaction request thereunder which may comprise London Metal Exchange metals and such

⁵ Credit support package, intercreditor provisions, and any adequate protection package for existing secured parties to be satisfactory to Silver Point.

	<p>other Shari'ah compliant commodities as may be agreed from time to time by AIHL and the Investment Agent and, in any event, will only include allocated commodities physically located outside the United Kingdom</p>
Purchase Contract	<ul style="list-style-type: none"> ▪ Each agreement for the sale by the Investment Agent of Commodities and the purchase of those Commodities by AIHL pursuant to the Murabaha DIP Facility (including each replacement purchase contract)
Deferred Sale Price	<ul style="list-style-type: none"> ▪ In relation to a Purchase Contract, an amount equal to the aggregate sum of: <ul style="list-style-type: none"> - The Cost Price, - All unpaid accrued Profit, - All other unpaid accrued amounts (including mandatory costs, increased costs and VAT (if any)) due and payable under the Murabaha DIP Facility on the Maturity Date
Cost Price	<ul style="list-style-type: none"> ▪ The amount (in US Dollars) payable or paid by the Investment Agent to the Seller for the purchase of Commodities by the Investment Agent (on a spot basis on the value date upon which the payment is made, or is to be made) to be on-sold by the Investment Agent to AIHL under the Purchase Contract.
Profit	<ul style="list-style-type: none"> ▪ $Cost\ Price * (L + M) * (N / 360)$ ▪ Where: <ul style="list-style-type: none"> - L is LIBOR, - M is the Margin and - N is the number of days to elapse from, and including, the date of the Purchase Contract in respect of the relevant Commodities, but excluding the Maturity Date

Seller	<ul style="list-style-type: none"> ▪ Broker to be determined
LIBOR	<ul style="list-style-type: none"> ▪ 3 month LIBOR contracts with LIBOR floor of 2.00%
Margin	<ul style="list-style-type: none"> ▪ 10.50% percent per annum
Availability Period	<ul style="list-style-type: none"> ▪ Single draw at closing unless the Court requires the Debtors to seek interim relief with respect to the Murabaha DIP Facility. ▪ If more than one draw is required, the Company shall pay to Silver Point 10.5% per annum (to be calculated on the number of days lapsed on the basis of 360 days) on the undrawn commitments for the period commenced with the Murabaha DIP Closing Date until the last day the available commitments are reduced to zero or are terminated, payable on each of (x) the date that is the earlier of (i) the date of each drawing of the Murabaha DIP Facility and (ii) the date of the next Purchase Contract in respect of the relevant Commodities and (y) the date the availability of the commitments is reduced to zero.
Deferred Payment Period⁶	<ul style="list-style-type: none"> ▪ The Maturity Date or, if applicable as provided herein, the Extended Maturity Date
Prepetition Secured Indebtedness	<ul style="list-style-type: none"> ▪ Arcapita is the counterparty under two Murabaha facilities made available by Standard Chartered Bank (“<u>SCB</u>”): <ul style="list-style-type: none"> - A US\$50 million facility, dated May 30, 2011, of which approximately US\$46.6 million is outstanding and which matured on March 28, 2012 (the “<u>SCB May 2011 Facility</u>”); and - A US\$50 million facility dated December 22, 2011, of which approximately US\$50.1 million is outstanding and which matured on March 28, 2012 (the “<u>SCB December 2011</u>”)

⁶ The Deferred Sale Price (excluding the Cost Price (which will be payable on the Maturity Date or, if applicable, the Extended Maturity Date)) will be payable at the end of each 3 month period (or such shorter period as reasonably determined by Silver Point) and on the Maturity Date or, if applicable, the Extended Maturity Date.

Facility” and, together with the SCB May 2011 Facility, the “SCB Facilities”).

- The SCB May 2011 Facility is guaranteed by each of AIHL, AIHL Sub, and WTHL. These guarantees are secured by: (i) a first priority pledge of AIHL’s shares in AIHL Sub; (ii) a first priority pledge of AIHL Sub’s shares in WTHL; and (iii) a second priority pledge of AIHL Sub’s shares in AEID II and RailInvest.
- The SCB December 2011 Facility is guaranteed by each of AIHL, AIHL Sub, WTHL, AEID II, and RailInvest. These guarantees are secured by: (i) a second priority pledge of AIHL’s shares in AIHL Sub; (ii) a first priority pledge of AIHL Sub’s shares in AEID II and RailInvest; and (iii) a second priority pledge in AIHL Sub’s shares in WTHL.
- The SCB Facilities represent the sole secured obligations of the Obligors.

Priority and Liens⁷

- The Murabaha DIP Facility will be a secured facility which will:
 - (i) Pursuant to section 364(c)(1) of the Bankruptcy Code, be entitled to superpriority administrative claim status having priority over any and all other claims;
 - (ii) Pursuant to section 364(c)(2) of the Bankruptcy Code, be secured by a perfected first-priority lien on all now owned or after acquired assets of Arcapita, AIHL and ALTHL, in each case, that are not otherwise subject to a lien (including (a) AIHL’s interests in the Murabaha WCF Entities (but only those that are reasonably determined to be material by Silver Point), (b) AIHL’s interests in the LT Caycos [to be defined] (but only those that are reasonably determined to be material by Silver Point) and (c) AIHL’s non-syndicated interests in the syndication companies (but only those that are reasonably determined to be material by Silver Point)); and

⁷ Credit support package, intercreditor provisions, and adequate protection package for secured parties to be satisfactory to Silver Point.

- (iii) Pursuant to section 364(c)(3) of the Bankruptcy Code, be secured by a perfected junior lien on all now owned or after acquired assets of the Debtor Obligors that are subject to (x) any valid, perfected and non-avoidable lien in existence on the Petition Date or (y) any valid lien in existence on the Petition Date that is perfected subsequent to the Petition Date by section 546(b) of the Bankruptcy Code (including, in each case, the liens on the collateral securing the obligations under the SCB Facilities) (together with the assets described in clause (ii) above, the “DIP Collateral”).
- (iv) Notwithstanding the foregoing, DIP Collateral will not include actions for preferences, fraudulent conveyances, and other avoidance power claims under sections 544, 545, 547, 548, 550 and 553 of the Bankruptcy Code (“Avoidance Actions”); provided, however the proceeds of Avoidance Actions shall be available to pay any administrative claim held by Silver Point or the Participants.
- (v) For the avoidance of doubt, be secured by perfected first-priority liens on all now owned or after acquired assets of the non-Debtor Obligors (but only those that are reasonably determined to be material by Silver Point); provided, however, (a) with respect to AIML, the Murabaha DIP Facility may, subject to due diligence, be secured by only AIML’s performance and management fee receivables and (b) with respect to AIFL, the Murabaha DIP Facility may, subject to due diligence, not be secured by AIFL’s interests in PointPark Properties s.r.o.⁸

Murabaha DIP Closing Date

- The Murabaha DIP Facility shall close promptly on the entry of an order of the Bankruptcy Court approving the financing (in form and substance satisfactory to the Investment Agent, the “Murabaha DIP Order”) and the satisfaction or waiver by the Investment Agent of the “Conditions to Murabaha DIP Closing and Transaction” as described below (the “Murabaha DIP Closing Date”).

⁸ To be structured to avoid unreasonably material interference with the EuroLog IPO.

Maturity Date	<ul style="list-style-type: none">▪ AIHL shall pay the Deferred Sale Price on the earliest of:<ul style="list-style-type: none">(i) March 31, 2013,(ii) The Effective Date of a chapter 11 plan for the Debtors,(iii) The date the Bankruptcy Court orders the conversion of the bankruptcy case of any Debtor Obligor to a chapter 7 liquidation or the dismissal of the bankruptcy case of any Debtor Obligor,(iv) the acceleration of the Deferred Sale Price in accordance with the definitive agreement in respect of the Murabaha DIP Facility (the “<u>Master Murabaha DIP Agreement</u>”), and(v) the date upon which the sale of all or substantially all of the Obligors’ assets is consummated.▪ Subject to satisfaction of certain Chapter 11-related milestones to be determined if, no more than 30 and no fewer than 7 days prior to the Maturity Date, AIHL, in its sole discretion, delivers a written notice to the prospective lender indicating that AIHL wishes to extend the Maturity Date by an additional 180 days, then, so long as no default or event of default has occurred and is continuing, the Maturity Date will be extended to the date which is 180 days from March 31, 2013 (the “<u>Extended Maturity Date</u>”); provided, however, that on or before the Maturity Date, AIHL pays to the Investment Agent a fee in the amount of one percent (1.00%) of the maximum amount of the Murabaha DIP Facility as of the Maturity Date (the “<u>Extension Fee</u>”)
Use of Proceeds	<ul style="list-style-type: none">▪ Pay profits, fees, and other expenses due and payable under the Murabaha DIP Facility▪ Pay other amounts in accordance with the Budget including, without limitation, investment deal fundings to the extent the Participants have a first priority security interest in such

investment deal fundings⁹

- Pay amounts due under the Carve Out (as defined herein)
- No portion of the Murabaha DIP Facility or the DIP Collateral may be used to commence or prosecute any action, proceeding, or objection with respect to or related to any claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness, or obligations that are subjects of the Release (as defined herein)

Carve Out

- “Carve Out” shall mean:
 - a. any unpaid fees due to the United States Trustee pursuant to 28 U.S.C. § 1930 or otherwise and any fees due to the clerk of the Bankruptcy Court,
 - b. the reasonable fees and expenses approved by the Bankruptcy Court incurred by a trustee under section 726(b) or 1104 of the Bankruptcy Code in an aggregate amount not to exceed US\$25,000,
 - c. the reasonable expenses of members of the official committee of unsecured creditors (the “Committee”) appointed in the chapter 11 cases (excluding fees and expenses of professional persons employed by Committee and / or such Committee member individually) in an amount not to exceed US\$75,000,
 - d. to the extent allowed at any time, all unpaid fees and expenses allowed by the Bankruptcy Court of professionals or professional firms retained pursuant to sections 327, 328, 330, 363, or 1103 of the Bankruptcy Code (the “Professional Persons”); and the reasonable fees and expenses of the Joint Provisional Liquidators, in each case, that were incurred or accrued through the date upon which AIHL receives from the Investment Agent a written

⁹ Portfolio companies to be funded by Murabaha WCF Entities whose interests are pledged to Participants on a First Lien basis, subject to due diligence.

	<p>notice of an Event of Default, and</p> <p>e. to the extent allowed at any time, all fees and expenses of Professional Persons incurred after the date upon which AIHL receives from the Investment Agent actual written receipt of an Event of Default, in the aggregate amount not to exceed US\$15,000,000; provided that:</p> <p>(1) the dollar limitations in clause (e) above on fees and expenses shall not be reduced by the amount of any compensation or reimbursement of expenses incurred by or paid to any Professional Person or the Joint Provisional Liquidator prior to the written notification of AIHL by the Investment Agent of the occurrence of an Event of Default in respect of which the Carve Out is invoked or by any fees, expenses, indemnities, or other amounts paid to the Investment Agent, Participant, or their respective attorneys or agents under the DIP Murabaha Facility or otherwise, and</p> <p>(2) to the extent the dollar limitation in clause (e) on fees and expenses is reduced by an amount as a result of payment of such fees and expenses during the continuation of an Event of Default, and such Event of Default is subsequently cured or waived, such dollar limitation shall be increased by an amount equal to the amount by which it has been so reduced</p>
<p>Mandatory Prepayments</p>	<ul style="list-style-type: none"> ▪ The Murabaha DIP Facility will be subject to customary mandatory prepayments to be included in the definitive legal documentation of the Master Murabaha DIP Agreement (including prepayments with the proceeds of the incurrence of financing (other than under the Murabaha DIP Facility), non-ordinary course sales of assets, tax refunds, and casualty events by the Obligor).
<p>Representations</p>	<ul style="list-style-type: none"> ▪ Representations and warranties customary or appropriate in the context of the proposed Murabaha DIP Facility
<p>Affirmative Covenants</p>	<ul style="list-style-type: none"> ▪ Covenants customary or appropriate in the context of the proposed Murabaha DIP Facility

Negative Covenants	<ul style="list-style-type: none">▪ Covenants customary or appropriate in the context of the proposed Murabaha DIP Facility
Financial and Reporting Covenants	<ul style="list-style-type: none">▪ Financial covenants to include compliance with the expenditure categories detailed under the Budget with actual results to be tested against such Budget on a rolling four-week aggregate basis, subject to a permitted variance of 10% from the aggregate expenditures under the Budget for each applicable four-week test period (the “<u>Permitted Variation</u>”); provided that (i) line items other than the “Deal-Fundings” line item (as set forth in the most recent Budget provided) shall be subject to a separate permitted variance of 10% from the aggregate expenditures for such line items under the Budget for each applicable four-week test period and (ii) the “Deal Fundings” line item shall be subject to a separate permitted variance of 10% from the expenditures for such line item under the Budget for each applicable four-week test period.▪ Delivery of annual, semi-annual and quarterly financial statements.▪ Delivery of quarterly report on value of a subset (to be determined) of the investment assets by agreed third party valuation expert.▪ Other financial covenants to be discussed, but shall include a collateral value coverage covenant of 3.0:1.0 based upon regularly updated agreed third party valuation of DIP Collateral.▪ The Obligors shall allow the Investment Agent and the Participants reasonable access to the Obligors’ representatives and books and records during regular business hours to monitor financial performance, Budget compliance, and the DIP Collateral.
Conditions to Murabaha DIP Closing and Transaction	<ul style="list-style-type: none">▪ The obligation of the Investment Agent (on behalf of the Participants) to enter into Murabaha Transactions under the Murabaha DIP Facility will be subject to the conditions precedent set forth (i) in the Murabaha DIP Commitment Letter, (ii) on Exhibit B to the Murabaha DIP Commitment Letter and (iii) other conditions precedent that are customary or appropriate in

	the context of the proposed Murabaha DIP Facility.
Murabaha DIP Order	<ul style="list-style-type: none">▪ The Murabaha DIP Order shall be reasonably satisfactory to the Investment Agent and the Participants and shall include provisions customary or appropriate in the context of the proposed Murabaha DIP Facility.
Events of Default	<ul style="list-style-type: none">▪ The Master Murabaha DIP Agreement shall contain events of default customary or appropriate in the context of the proposed Murabaha DIP Facility, including but not limited to:<ul style="list-style-type: none">- The entry of an order dismissing the case or converting any Debtor's case to a chapter 7 case;- The entry of an order appointing a chapter 11 trustee in any Debtor's case or an examiner with enlarged powers under section 1106 of the Bankruptcy Code;- The entry of an order granting any other claim superpriority status or a lien equal or superior to that granted to the prospective lender for the ratable benefit of the Participants;- The entry of an order staying, reversing, vacating, or modifying the Murabaha DIP Facility or the Final Order without the prospective lender's prior written consent;- The failure of AIHL to pay the Deferred Sale Price or fees when due;- The failure of any Obligor to comply with financial or certain other covenants;- Any representation or warranty by any Obligor shall be incorrect in any material respect when made;- The entry of an order granting relief from the automatic stay so as to allow a third party to proceed against any material asset of any of the Obligors with a value in excess of US\$[TBD]¹⁰;

¹⁰ Subject to due diligence.

	<ul style="list-style-type: none">- The violation of any material term, provision or condition in the Murabaha DIP Order;- The making of any payment or disbursement that is not set forth in the Budget without the prior written consent of the prospective lender;¹ and- Any adverse deviation of more than the Permitted Variation from the amount set forth for the total expenditures (or expenditures relating to the “Deal Fundings” and non-“Deal Fundings” line items thereof as provided above) under the Budget for any four-week budget period.
Remedies	<ul style="list-style-type: none">▪ The Master Murabaha DIP Agreement and Murabaha DIP Order shall contain remedies customary or appropriate to be determined in the context of the proposed Murabaha DIP Facility, including, without limitation, foreclosing on the DIP Collateral.
Release	<ul style="list-style-type: none">▪ The Obligors will provide customary releases and exculpations for any claims, demands, liabilities, responsibilities, disputes, remedies causes of action, indebtedness, or obligations related to or arising out of the Murabaha DIP Facility (the “<u>Release</u>”).
Conversion to Murabaha Exit Facility	<ul style="list-style-type: none">▪ At AIHL’s election, the outstanding Murabaha DIP Facility shall be paid off and satisfied from the proceeds of a new Murabaha exit facility to be provided by the Investment Agent and the Participants (collectively, the “<u>Murabaha Exit Facility</u>”).▪ Maturity of Murabaha Exit Facility: the date which is the three-year anniversary of the effective date of the Plan.▪ Profit for the Murabaha Exit Facility: shall be calculated on a similar basis as Profit under the Murabaha DIP Facility except that the Margin may be increased by up to 2.00% per annum.▪ Mandatory prepayments shall be made in respect of asset sales in an amount of net proceeds

¹ A “miscellaneous” line item may be included in the Budget in an amount to be agreed.

	<p>equal to a percent, to be agreed, of a release price to be agreed for such asset, with remaining proceeds made available to the Company for general corporate purposes (so long as no default or event of default has occurred and is continuing).</p> <ul style="list-style-type: none">▪ Until paid in full, the Murabaha Exit Facility shall have payment priority rights with respect to proceeds of 75% of the net excess cash. “Net excess cash” to be defined, but shall be cash of AIHL net of anticipated expenses, minimum liquidity, and structurally prior costs, expenses and obligations.▪ Fees, call protection, covenants and other terms to be determined.
Governing Law	<ul style="list-style-type: none">▪ The Master Murabaha DIP Agreement and other finance documents in connection with the Murabaha DIP Facility shall be governed by the laws of the state of New York (or, as and where applicable, local jurisdictions solely for the purposes of perfecting liens on the DIP Collateral).

CONDITIONS PRECEDENT TO BORROWING UNDER DIP FACILITY

Capitalized terms used in this Exhibit B but not defined herein shall have the meanings set forth in the commitment letter to which this Exhibit B is attached (the "Commitment Letter") and in the other Exhibits to the Commitment Letter. In the case of any such capitalized term that is subject to multiple and differing definitions, the appropriate meaning thereof in this Exhibit B shall be determined by reference to the context in which it is used.

The transactions under the Murabaha DIP Facility on the Murabaha DIP Closing Date shall be subject to the following additional conditions precedent:

1. Murabaha DIP Facility Documentation: The execution and delivery of definitive collateral and other credit documentation consistent with the terms of the Commitment Letter and the Murabaha DIP Term Sheet, in each case prepared by counsel to Silver Point and otherwise satisfactory to Silver Point (the "Definitive Financing Documentation").
2. Murabaha DIP Order: The Murabaha DIP Order shall have been entered by the Bankruptcy Court on or prior to November 30, 2012 and shall be in full force and effect and unstayed.
3. Budget; Financial Statements: The Participants shall have received copies of (i) a 13-week cash flow forecast prepared by AIHL (as supplemented from time to time in accordance with the Murabaha DIP Facility, the "Budget") in form and substance satisfactory to Silver Point and (ii) such historical and pro forma financial statements with respect to such periods as Silver Point may reasonably request, all of the foregoing to be in form and substance reasonably satisfactory to Silver Point.
4. Shari'ah Board Approval: The Obligors' "Shari'ah Advisory Board" shall approve the execution of the Murabaha DIP Facility and the finance documents and issue a "Fatwa" that the Murabaha DIP Facility and the finance documents are in compliance with Shari'ah principles, as well as related Shari'ah compliance representations, warranties and covenants.
5. Intercreditor Arrangements: Intercreditor arrangements with or among Silver Point, the Company and/or third parties shall be in form and substance satisfactory to Silver Point.
6. Opinion from Third Party Shari'ah Consultant: The Participants shall have received an opinion from a third party Shari'ah consultant reasonably satisfactory to Silver Point.
7. No Material Adverse Effect: Since the date of the Murabaha DIP Commitment Letter, nothing shall have occurred and Silver Point and the Participants shall not have become

aware of any facts or conditions not previously known which has had, or could reasonably be expected to have, a material adverse effect, provided that the continuation of the Chapter 11 Cases shall not constitute a material adverse effect.

8. Fees and Expenses:

All reasonable and documented costs, fees, expenses (including, without limitation, legal fees and expenses and the fees and expenses of any third party Shari'ah consultant and the fees, costs and expenses of the commodity brokers, to the extent the foregoing are reasonable and documented) and other compensation contemplated by the Fee Letter and herein, payable to Silver Point and the Participants or otherwise payable, shall have been paid to the extent due.

9. Events of Default:

There shall exist no default or Event of Default (including, without limitation, with respect to the collateral value coverage covenant).

10. Representations and Warranties:

All representations and warranties contained in the Commitment Letter, the Murabaha DIP Term Sheet and the Definitive Credit Documentation shall be true and correct in all material respects.

11. Miscellaneous:

The Participants shall have received (x) legal opinions from counsel (including, without limitation, New York counsel) covering matters reasonably acceptable to Silver Point and (y) appropriate officer certifications relating to closing conditions and items to be delivered in connection therewith.

DUE DILIGENCE TOPICS

The due diligence topics listed below are high priority matters. However, Silver Point's diligence requests may be broader. Silver Point reserves its rights to request additional information in connection with its diligence efforts pursuant to the Commitment Letter.

With respect to (i) Freightliner, (ii) J. Jill, (iii) Honiton, (iv) Arcapita European Industrial I, (v) Arcapita European Industrial II, (vi) Arcapita European Industrial Yielding I, (vii) Viridian, (viii) US Senior Living (Fountains), (ix) Lusail and (x) such other subsidiaries of Arcapita Bank B.S.C.(c) identified as material as a result of confirmatory due diligence (each of the entities described in clauses (i) – (x) an "Arcapita Company"), Silver Point requests confirmatory diligence with respect to each of the following:

1. Economic rights and obligations of each Arcapita Company, including, without limitation, confirmation of the distribution waterfalls and payment of management fees;
2. The governance and voting rights of each Arcapita Company;
3. Ownership of the collateral and material assets held by the Obligor as well as each Arcapita Company that is not an Obligor, including, in each case, applicable valuations;
4. Liens, restrictions, rights and other obligations with respect to a transfer, disposition or pledge of any Arcapita Company's capital stock or assets (including, for the avoidance of doubt, information regarding any limitations on establishing, or requirement to subordinate, the DIP Collateral package for the proposed transaction); and
5. Rights of third parties potentially triggered by the filing by the Company Group of the chapter 11 cases pending in the U.S. Bankruptcy Court for the Southern District of New York, Case No. 12-11076 and/or the Proposed Transaction, including, but not limited to, technical defaults, litigations, notice requirements, potential change of control or termination rights or obligations.

EXHIBIT C
HIRSH DECLARATION

GIBSON, DUNN & CRUTCHER LLP

Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted pro hac vice)
Matthew J. Williams (MW 4081)
Matthew K. Kelsey (MK-3137)
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Attorneys for the Debtors and Debtors in Possession

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

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

**DECLARATION OF LAWRENCE R. HIRSH IN
SUPPORT OF DEBTORS' MOTION FOR ENTRY OF AN
ORDER AUTHORIZING THE DEBTORS TO ENTER
INTO A FINANCING COMMITMENT LETTER AND INCUR
RELATED FEES, EXPENSES AND INDEMNITIES**

I, Lawrence R. Hirsh, hereby declare as follows:

1. I am a Managing Director 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 its independent contractors collectively, "A&M"), a professional services firm that has been retained by the Debtors (defined below) in the Chapter 11 Cases. My business address is 3424 Peachtree Road NE, Suite 1500,

Atlanta, Georgia 30326. I am in charge of A&M's engagement by Arcapita Bank B.S.C. ("*Arcapita*") and its affiliated debtors and debtors in possession (collectively, with Arcapita, the "*Debtors*" and each a "*Debtor*").

2. As Managing Director of A&M and the person responsible for A&M's engagement by Arcapita, I am duly authorized to make this Declaration on behalf of A&M in support of the Motion (the "*Motion*")¹ of the Debtors for entry of an order authorizing the Debtors to enter into a financing commitment letter and incur related fees, expenses and indemnities with respect to prospective post-petition financing (referred to in the Motion as the "*Proposed Transaction*"), under the terms and conditions set forth in the Motion and the commitment letter annexed as *Exhibit B* to the Motion (the "*Commitment Letter*").

3. 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 professionals at A&M who are under my supervision. If called upon to testify, I could and would testify competently to the facts set forth herein.

4. The purpose of this Declaration is to summarize the Debtors' current need for additional liquidity.

BACKGROUND

5. Founded in 1983, A&M is a global professional services firm specializing in turnaround and interim management, performance improvement and business advisory services. A&M delivers specialist operational, consulting and industry expertise to management and investors seeking to accelerate performance, overcome challenges and maximize value across the corporate and investment lifecycles. A&M has been engaged in numerous large

¹ All capitalized terms used but otherwise not defined herein shall have the meanings set forth in the Motion.

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, to provide services similar to the services it is providing to the Debtors in the Chapter 11 Cases.

6. Previously, during the Chapter 11 Cases, I submitted a declaration in connection with the Debtors' application to retain A&M as their financial advisors. As I noted in my previous declaration, I have extensive experience with Chapter 11 cases and other distressed restructurings, principally advising debtors and various other stakeholders in the Chapter 11 process. I have approximately 20 years of experience in advising troubled companies and their stakeholders with restructuring their operational and financial positions. Since joining A&M in 2002, I have advised companies on numerous in-court and out-of-court restructurings, recapitalizations, and reorganizations.

7. The Debtors retained A&M pursuant to an engagement letter dated March 24, 2012 (the "***Engagement Letter***"). I reviewed and ultimately executed the Engagement Letter. Pursuant to such letter, the Debtors engaged A&M to provide a number of services targeted at stabilizing and improving the company's financial position. A&M's scope of services includes developing cash forecasts, business plans and related assessments of a business's strategic position; monitoring and managing cash flows; assessing and recommending cost reduction strategies; and designing and negotiating financial restructuring packages. Among other things, A&M agreed to assist the Debtors with their preparation of cash flow forecasts, analysis of deal funding requirements, and creation of statements of financial affairs, schedules of assets and liabilities and monthly operating reports and perform other financial and operational matters for the Debtors.

8. I supervised A&M professionals in connection with their performance of the foregoing. Accordingly, I have developed substantial knowledge regarding the Debtors' expenditures, ongoing expenses and financing needs, as a debtor-in-possession.

STATEMENT

I. The Debtors' Current Liquidity Position

9. The Debtors have been in bankruptcy for approximately six months. Prior to filing the Motion, to my knowledge, the Debtors had not sought post-petition financing. Instead, the Debtors have managed their businesses and funded general and administrative expenses, staff costs, professional fees and expenses and deal funding costs (as described below) with cash on hand.

10. I and A&M professionals supervised by me have developed an in-depth knowledge of the Debtors' expenditures in connection with the budget process in the Chapter 11 Cases. A&M professionals supervised by me have assisted the Debtors with the preparation of eight interim budgets (each, an "***Interim Cash Management Budget***" and collectively, the "***Interim Cash Management Budgets***") to date which I understand were submitted to the Court for approval in connection with the *Debtors' Motion for Interim and Final Orders (A) Authorizing Debtors to (I) Continue Existing Cash Management System, Bank Accounts, and Business Forms and (II) Continue Ordinary Course Intercompany Transactions; and (B) Granting an Extension of Time to Comply with the Requirements of Section 345(b) of the Bankruptcy Code* [Docket No. 12]. I reviewed each Interim Cash Management Budget prior to its submission to the Court. Where necessary, I and my colleagues have engaged in substantive discussions with professionals for the official committee of unsecured creditors (the "***Committee***") in the Chapter 11 Cases and the joint provisional liquidators (the "***Joint***

Provisional Liquidators”) in the Cayman Islands liquidation of AIHL in connection with specific budget line items.

11. The Debtors, with A&M’s assistance, have submitted to the Court an updated Interim Cash Management Budget approximately every four weeks since the beginning of the Chapter 11 Cases. Each budget sets forth expected cash receipts and disbursements for the succeeding four-week period. The Interim Cash Management Budgets broadly project:

- (i) receipts from deal exits, murabaha repayments, yields, management fees and other sources;
- (ii) disbursements for staff expenses; (iii) disbursements for general and administrative expenses;
- (iv) disbursements for deal funding; (v) disbursements for restructuring fees, including fees and expenses for professionals retained in the Chapter 11 Cases and the Cayman proceedings; and
- (vi) disbursements for other miscellaneous items. Each Interim Cash Management Budget segregates receipts and disbursements between non-Debtor and Debtor entities and further differentiates between the receipts and disbursements of AIHL and those of the other Debtors. The Interim Cash Management Budgets also track cash transfers between the aforementioned entities.

12. In order to draft an Interim Cash Management Budget, A&M works with designated individuals in each office of Arcapita. Designated Arcapita Human Resource Department employees, for example, assist A&M with forecasting staff expenses. Designated investment team members assist with forecasting investment receipts and deal fundings. A&M periodically solicits projections of fees and expenses from the professionals retained in the Chapter 11 Cases to include in the Interim Cash Management Budgets and tracks fee statements and fee applications to ensure forecasts for professional fees and expenses include the best

available information. A&M also has procedures in place to review all proposed cash disbursements.

13. To date, the Committee has twice objected to projected deal funding expenses (i.e. downstream transfers in favor of Arcapita Group Investments) reflected in Interim Cash Management Budgets. On both occasions, Committee professionals, the Debtors and A&M professionals ultimately agreed as to the funding request without further Court involvement.

14. In addition to the Interim Cash Management Budgets, A&M has prepared, with the assistance of Arcapita personnel, a weekly cash forecast through March 31, 2013, which is the projected date for emergence from Chapter 11 (the "***DIP Budget***"). The DIP Budget reflects the same types of receipts and disbursements in the Interim Cash Management Budgets. It simply projects them on a longer timeline, through March 31, 2013, to match the Debtors' projected emergence from Chapter 11. In my opinion, the DIP Budget represents a reasonable projection of cash flows that assumes the Debtors continue to manage cash in a careful and responsible manner, utilizing their business judgment, to minimize cash uses while protecting and maximizing asset values. I supervised preparation of the DIP Budget.

15. The Interim Cash Management Budgets and DIP Budget both evidence the substantial costs the Debtors have incurred and expect to incur during the Chapter 11 Cases. As of September 15, 2012, the Debtors have funded \$50.5 million of deal funding expenses. Approximately \$40.5 million of such deal funding expenses concerned the Lusail property alone. An additional \$34.3 million has been disbursed to fund staff and general administrative costs during the Chapter 11 Cases of which approximately \$4.0 million related to one-time severance and separation payments as a result of staff reductions.

16. For example, total projected disbursements for the period covered by the Eighth Interim Cash Management Order (through October 6) equal approximately \$21.7 million. Of that amount, approximately 23% comprises deal funding expenses. During the period covered by the Eighth Interim Cash Management Order, staff and general administrative costs approximate to \$6.5 million.

17. As a result of these expenditures, and despite the Debtors' diligent cash management efforts, the Debtors' liquidity has, not surprisingly, decreased. The Debtors' cash on hand, including non-Debtor subsidiary cash, as of the commencement of the Chapter 11 (the "*Petition Date*"), was approximately \$155.1 million. Excluding the \$35.0 million in placements held in accounts in other financial institutions in Bahrain, as discussed below, the net available cash to the Debtors at the Petition Date was approximately \$120.1 million. As of September 15, 2012, the Debtors have \$79.7 million of cash and cash equivalents and the non-Debtor subsidiaries hold an additional \$3.4 million, yielding total cash and cash equivalents of \$83.1 million. Included in that amount is \$35 million held in placement accounts in Bahrain. I understand that this cash may not be accessed without prolonged litigation against parties which may not have minimum contacts with the United States. I also understand that the Debtors' attempts to negotiate for release of the cash held in such placements accounts to date have been unsuccessful. Accordingly, in the DIP Budget, A&M professionals excluded the placements accounts as a source of cash. Similarly, the Debtors set aside the placements accounts in the monthly operating reports to avoid confusion. Not counting for cash held in such placement accounts, the Debtors effectively have access to \$48.1 million in cash and cash equivalents as of September 15, 2012.

18. Notably, while I understand that various Arcapita Group Investments and/or various assets held within Arcapita Group Investments are being marketed for sale or may be marketed for sale between now and March 2013, potential sale proceeds arising from these marketing efforts have not been included in the DIP Budget projections as the consummation of any sale is subject to a myriad of issues outside of the Debtors' control including, but not limited to: (i) favorable market conditions for selling investments or the assets held within investments; (ii) the ability to reach an acceptable agreement with a potential purchaser on price or any other terms or conditions for the sale of an investment or the assets held within investments; and (iii) the ability of a potential purchaser to close on a sale at all or within an acceptable timeframe. In addition, the Debtors may not have access or authority to utilize any such realized asset sale proceeds to fund their costs.

II. The Debtors' Cash Needs

19. Based on the DIP Budget prepared by A&M professionals supervised by me, current available cash resources are insufficient for the Debtors to continue operations in Chapter 11 and to continue funding further investments in Arcapita Group Investments, which as I understand it, comprise the actual value of the estates. As noted above, as of September 15, 2012, the Debtors have current access to approximately \$48.1 million in cash and cash equivalents, which, when coupled with the proposed \$150 million of borrowings under the Proposed Transaction, would provide \$198.1 million of liquidity. The DIP Budget projects that the Debtors and Arcapita's non-Debtor subsidiaries will use \$170.6 million to operate through March 31, 2013, resulting in a remaining estimated cash balance at March 31, 2013 of approximately \$27.5 million. The \$170.6 million is the net of \$6.3 million of cash receipts, less: (i) \$20.4 million for general and administrative expenses; (ii) \$14.5 million in staff expenses;

(iii) \$44.4 million of deal funding expenses; (iv) \$72.4 million of restructuring expenses; (v) \$17.2 million of fees and costs relating to the Proposed Transaction; and (vi) \$8.3 million in interest and costs for Standard Chartered Bank. Excluded from DIP Budget are additional cash disbursements to settle unfunded administrative costs of the Chapter 11 Cases and the Cayman proceedings, including but not limited to approximately \$9.4 million in incentive fees for Houlihan Lokey Capital, Inc. and Rothschild, Inc. and N.M. Rothschild & Sons, Limited.

20. The DIP Budget and corresponding assessment of liquidity needs for the pendency of the Chapter 11 process includes incremental liquidity to fund unforeseen cash requirements, including a possible delay in exiting Chapter 11. Over the approximately six-month term of the DIP Budget, the company projects to use an average of over \$25 million of cash per month. Therefore, under the DIP Budget, as of March 31, 2013, the available incremental liquidity would be approximately \$27.5 million, which amount constitutes a reasonable and necessary cash cushion to fund the professional incentive fees noted above, to provide for any delay in exiting Chapter 11, to fund unforeseen deal fundings and to address any other unfunded administrative expenses. Any forecasts covering this period of time are dynamic and subject to change as facts and circumstances change and new information comes to light.

21. Based on the foregoing analysis, the Debtors, with counsel from their advisors, including A&M, have determined that approximately \$150 million of additional financing will be sufficient to sustain their businesses and to monetize their assets during the Chapter 11 Cases. I support this assessment.

22. Consequently, based upon my assessment of the Debtors' liquidity position and financing needs and upon my review of the Commitment Letter, it is my opinion that:

- i. the Debtors require additional financing in order to continue to fund Arcapita Group operations and bridge the Debtors to emergence;
- ii. the financing contemplated under the Commitment Letter is sufficient to satisfy such requirement; and
- iii. as a result of the foregoing, the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors and other stakeholders.

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 25th day of September, 2012.

/s/ Lawrence R. Hirsh

Lawrence R. Hirsh,
Managing Director,
Alvarez & Marsal North America, LLC

EXHIBIT D
PARKHILL DECLARATION

GIBSON, DUNN & CRUTCHER LLP

Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted pro hac vice)
Matthew J. Williams (MW 4081)
Matthew K. Kelsey (MK-3137)
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Attorneys for the Debtors and Debtors in Possession

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

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

**DECLARATION OF HOMER PARKHILL IN SUPPORT OF
DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING
THE DEBTORS TO ENTER INTO A FINANCING
COMMITMENT LETTER AND INCUR RELATED
FEES, EXPENSES AND INDEMNITIES**

I, Homer Parkhill, hereby declare as follows:

1. I am a Managing Director of Rothschild Inc. (together with its affiliate N M Rothschild & Sons Limited, "*Rothschild*"), a financial advisory services and investment banking firm. The principal office of Rothschild Inc. is located at 1251 Avenue of the Americas, 51st Floor, New York, New York 10020. N M Rothschild & Sons Limited has its principal office at New Court, St. Swithin's Lane, London, UK, EC4N 8AL. I am duly authorized to make this Declaration on behalf of Rothschild in support of the Motion (the "*Motion*")¹ of Arcapita Bank B.S.C.(c) ("*Arcapita*") and certain of its subsidiaries, as debtors and debtors in

¹ All capitalized terms used but otherwise not defined herein shall have the meanings set forth in the Motion.

possession (collectively, the “*Debtors*” and each, a “*Debtor*”) for entry of an order authorizing the Debtors to enter into a financing commitment letter and incur related fees, expenses and indemnities with respect to the prospective post-petition financing (referred to in the Motion as the “*Proposed Transaction*”), under the terms and conditions set forth in the Motion and the commitment letter annexed as **Exhibit B** to the Motion (the “*Commitment Letter*”) and the associated fee letter (the “*Fee Letter*”) annexed as **Exhibit E** to the Motion.

2. 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 professionals at Rothschild who are acting under my supervision. As a Managing Director of Rothschild, I am authorized to submit this Declaration and, if called upon to testify, I could and would testify competently to the facts set forth herein.

3. The purpose of this Declaration is to summarize (i) Rothschild’s efforts to solicit and identify Potential Lenders; (ii) the negotiation process leading to the Proposed Transaction; (iii) the reasonableness of the terms and fees of the Proposed Transaction; and (iv) how, based on Rothschild’s understanding of the “market” for the Proposed Transaction, the Commitment Letter and the Fee Letter, including the fees and expenses thereunder, compare to the other proposals received during the solicitation process and other financings observed in the market.

GENERAL BACKGROUND

4. Rothschild and its professionals have extensive experience working with financially troubled companies from a range of industries in complex financial and operational restructurings, both in- and out-of-court, and specialize in, among other things, soliciting

potential debtor in possession lenders. An extensive summary of Rothschild's relevant industry experience is included in the Rothschild Application (defined below).

5. On March 19, 2012, the Debtors and Rothschild entered into an engagement letter regarding the retention of Rothschild as financial advisor and investment banker to the Debtors (the "**Engagement Letter**"). On April 3, 2012, the Debtors filed their application for entry of an order authorizing the employment and retention of Rothschild as financial advisor and investment banker [Docket No. 53] (the "**Rothschild Application**"). On July 9, 2012, the Court entered its *Order Approving the Debtors' Employment And Retention Of Rothschild Inc. And N M Rothschild & Sons Limited As Financial Advisors And Investment Bankers For The Debtors Nunc Pro Tunc To The Petition Date* [Docket No. 305]. I reviewed the Engagement Letter and the Rothschild Application.

6. Pursuant to the Rothschild Application and the associated order, which I also reviewed, Rothschild is authorized to provide a number of financial advisory and investment banking services to the Debtors in the course of the Chapter 11 Cases, including, reviewing and analyzing any proposal for post-petition debtor in possession financing.

7. In addition to Rothschild, the Debtors also retained Alvarez & Marsal North America, LLC ("**A&M**") as financial advisor. A&M assisted the Debtors with the preparation of the eight interim budgets to date which I understand were submitted to the Court for approval in connection with the *Debtors' Motion for Interim and Final Orders (A) Authorizing Debtors to (I) Continue Existing Cash Management System, Bank Accounts, and Business Forms and (II) Continue Ordinary Course Intercompany Transactions; and (B) Granting an Extension of Time to Comply with the Requirements of Section 345(b) of the Bankruptcy Code* [Docket No. 12] (the "**Interim Cash Management Budgets**"). The Debtors

have submitted to the Court an updated Interim Cash Management Budget approximately every four weeks since the beginning of the Chapter 11 Cases. Each budget sets forth expected cash receipts and disbursements for the succeeding four-week period. The Interim Cash Management Budgets broadly project: (i) receipts from deal exits, murabaha repayments, yields, management fees and other sources; (ii) disbursements for staff expenses; (iii) disbursements for general and administrative expenses; (iv) disbursements for deal funding; (v) disbursements for restructuring fees, including fees and expenses for professionals retained in the Chapter 11 Cases and the Cayman proceeding; and (vi) disbursements for other miscellaneous items. Each Interim Cash Management Budget segregates receipts and disbursements between non-Debtor and Debtor entities and further differentiates between the receipts and disbursements of AIHL and those of the other Debtors. The Interim Cash Management Budgets also track cash transfers between the aforementioned entities.

8. In addition, A&M prepared a weekly cash forecast through March 31, 2013, which is the projected date for emergence from chapter 11 (the “*DIP Budget*”). Pursuant to the DIP Budget, A&M has determined that \$150 million of additional financing is required to sustain the Debtors’ businesses and to enable the monetization of their assets. I have reviewed the Interim Cash Management Budgets and the DIP Budget and I concur with A&M’s analyses therein and conclusions thereon.

9. In my opinion, based on my review of the Interim Cash Management Budgets and the DIP Budget, current liquidity is insufficient to fund projected expenses. This projected shortfall compelled Rothschild professionals to advise the Debtors to seek third party financing. It is my opinion that the Proposed Transaction will enable the Debtors to pay ongoing administrative expenses and provide the required deal funding support to preserve and monetize

their assets (i.e. their equity interests in their non-Debtor subsidiaries and investments) at the best available value.

SOLICITATION PROCESS

10. In connection with the Proposed Transaction, Rothschild professionals supervised by me, engaged in a two-stage solicitation process the result of which is the parties' agreement as to the Commitment Letter. Our goal with the solicitation process was to obtain the best financing offer available, to ensure the Selected Lender had the wherewithal to consummate the Proposed Transaction and ultimately, to maximize value for the benefit of the Debtors and their estates.

11. The first stage of the solicitation process consisted of the production of marketing materials and the solicitation of proposals for post-petition financing. Rothschild professionals prepared a confidential information memorandum ("*CIM*"), which incorporated materials prepared by the Debtors' other advisors, including, a financing term sheet and a prior version of the DIP Budget. The second stage of the solicitation process included identifying and choosing the Selected Lender with the best proposal and negotiating with that party regarding final documentation.

12. I, along with other Rothschild professionals supervised by me, actively participated in the entire solicitation process and, in particular, the negotiation of the Commitment Letter. The following describes the development of the solicitation process:

I. Identifying Potential Lenders

13. As part of the solicitation process, Rothschild professionals commenced a rigorous screening process to identify Potential Lenders. I reviewed the results of the screening process. We selected Potential Lenders based on a number of factors, including, their (a) ability

to provide Shar'iah-compliant financing, (b) experience providing debtor in possession financings, and (c) familiarity with the Arcapita Group. Additionally, we permitted third-parties, who expressed unsolicited interest, to participate in the process. In my opinion, the Proposed Transaction is unique. Specifically, to my knowledge, it is the first ever Shari'ah compliant post-petition financing.

14. Ultimately, Rothschild professionals supervised by me identified and contacted more than 29 Potential Lenders who we concluded were or could be interested in providing all or a portion of the required post-petition financing. Such parties primarily included traditional debtor in possession lenders, institutions with experience in Shari'ah compliant lending, Middle Eastern banks, hedge funds and current Arcapita Group creditors.

15. Of the 29 Potential Lenders identified by Rothschild, 18 executed confidentiality agreements and were provided with a CIM as well as access to a comprehensive regularly updated virtual data room maintained by Rothschild. In my opinion, the available diligence provided Potential Lenders with adequate information to analyze the nature of the available collateral, which includes equity pledges and other interests in generally leveraged portfolio companies.

16. Seven Potential Lenders submitted non-binding indications of interest. Rothschild asked six of those seven Potential Lenders to participate in a second phase of the solicitation process, during which, after being provided additional information (i.e. valuation reports prepared by KPMG LLP and waterfall analyses for a majority of Arcapita Group's assets) they were asked to reaffirm their indications of interest. Five of the remaining six Potential Lenders either confirmed their existing non-binding indications of interest or submitted revised proposals.

17. The Debtors, acting with the advice of Rothschild professionals and the Debtors' other advisors, selected two Potential Lenders to submit offers to provide post-petition financing.

18. Rothschild professionals supervised by me consulted with the Committee's professionals throughout the solicitation process and sought their input on both the initial list of Potential Lenders and decisions to narrow the group of Potential Lenders during the solicitation process. The Debtors' and Rothschild's goal was to limit the Potential Lenders to two Potential Lenders with the wherewithal to consummate the Proposed Transaction. The five proposals were all generally in the same economic band but two institutions were selected based on the following criteria: (i) their level of business diligence done to date; (ii) their willingness to consider converting the Proposed Transaction into exit financing; and (iii) the Debtors' confidence in the institutions being able to deliver on a financing commitment within a relatively short timeline given the unique nature of the assets and circumstance of the Debtors.

II. The Commitment Letter

19. On or around September 9, 2012, the Debtors received two separate offers for post-petition financing. After examining the submitted proposals, the Debtors, with advice from Rothschild and the Debtors' other professionals, selected Silver Point Finance, LLC ("*Silver Point*") to serve as investment agent and DIP Participant.

20. In connection with the solicitation process, I was actively involved with the negotiation and completion of the Commitment Letter and Fee Letter submitted by Silver Point. Silver Point's commitment under the Commitment Letter is subject to the Debtors' acceptance and return of the Fee Letter.

21. Upon receipt of the Commitment Letter from Silver Point, the Debtors' professionals, including Rothschild, and Silver Point engaged in extensive arms' length negotiations regarding the terms of the Commitment Letter and the Fee Letter and ultimately, after considerable back and forth, agreed to the terms set forth therein.

22. I have reviewed Silver Point's commitment to provide financing and in my opinion, the Silver Point Commitment Letter, represents the best offer for financing available for the following reasons: (i) the Commitment Letter provides the Debtors with a commitment to borrow \$150 million; (ii) the Commitment Letter provides that the obligations thereunder may be converted to post-emergence debt upon after the Debtors' emergence from Chapter 11; (iii) based on my review of the Interim Cash Management Budgets and the DIP Budget, I believe the Commitment Letter provides the necessary amount of liquidity (and does so at a market price); and (iv) Silver Point's Commitment Letter provides the greatest ability to deliver on a financing commitment within a relatively short timeline which is necessary given the unique nature of the assets and circumstance of the Debtors.

23. The alternative proposals were either (i) for a significantly lesser amount which, the Debtors advisors, including Rothschild, determined would not be sufficient to preserve estate values and to maximize recoveries given the Debtors' efforts to emerge from Chapter 11 in the first quarter of 2013, (ii) on less favorable terms, (iii) lacking a commitment for the facility to convert to exit financing, or (iv) determined by Rothschild to be unable to deliver an underwritten financing commitment within the necessary timeline. Attached hereto as Exhibit A is a chart created by Rothschild professionals supervised by me describing the key economic terms of the various proposals for debtor in possession financing that Rothschild received on the Debtors' behalf as part of the solicitation process (the "*DIP Proposal*

Comparison Chart”). I have reviewed the DIP Proposal Comparison Chart. The chart compares the economics of the different proposals, including the Commitment Letter.

24. As is typical for debtor in possession financings, it is subject to the terms and conditions set forth or referred to in the Commitment Letter and the term sheet annexed thereto. The Commitment Letter also contains requirements as to fees and expenses. Based on my experience and the specific facts and circumstances surrounding the financing process here, these terms, conditions fees and expenses are reasonable. In my opinion, they are further justified by the unique nature of the Proposed Transaction.

A. Expense Reimbursement

25. The Commitment Letter provides that once Silver Point provides written notice that the conditions precedent set forth in the Commitment Letter relating to due diligence and the required approval of the credit committee are satisfied, Silver Point shall be entitled to reimbursement for all reasonable and documented fees and expenses arising in connection with the Commitment Letter and the Proposed Transaction (the “*Expense Reimbursement*”). However, until Silver Point provides written notification of its satisfaction of the Subject Conditions Precedent, the Expense Reimbursement is capped at \$900,000.

26. It is my understanding that on September 21, 2012, the Court entered its *Order Approving Expense Reimbursement in Connection with Prospective Post-Petition Financing* [Docket No. 500], thereby approving the Debtors’ funding a \$500,000 expense deposit with the Selected Lender, now known to be Silver Point, and that any amounts withdrawn by Silver Point from such expense deposit would be applied towards the \$900,000.

27. The Expense Reimbursement is common and, in my opinion, is in accordance with “market” practice for transactions of similar size and nature. In my experience,

post-petition lenders often condition commitments to provide financing on the receipt of expense reimbursements, particularly where the debtor retains the right to find alternative better financing in the market. Also, based on my discussions with Silver Point, I believe that absent this Expense Reimbursement, Silver Point may not perform under the Commitment Letter.

B. Commitment Fee²

28. The Fee Letter provides that the Debtors shall pay to Silver Point a non-refundable commitment fee equal to 1.50% of the amount of the facility with respect to the Proposed Transaction (the "*Commitment Fee*"). The Commitment Fee will only be earned by Silver Point and therefore, be payable, once Silver Point provides notice with respect to the satisfaction of the Subject Conditions Precedent. [REDACTED]

[REDACTED] Pursuant to the Fee Letter, in the event the Commitment Letter is terminated as a result of the Debtors' negotiation or execution of any debtor in possession financing other than the transaction contemplated by the Motion, the Debtors are required pay to Silver Point 0.75% of the amount of the facility with respect to the Proposed Transaction regardless of whether the Subject Conditions Precedent have been satisfied.

29. [REDACTED]

² This summary of the Commitment Letter is qualified in the entirety by the provisions of the Fee Letter. To the extent there are any conflicts between this Declaration and the Commitment Letter or Fee Letter, as applicable, the terms of the Commitment Letter or Fee Letter, as applicable, shall govern.

[REDACTED]

30. [REDACTED]

[REDACTED]

31. The Proposed Transaction is unique because of the complexity involving compliance with Shari'ah law, and therefore, there are aspects that are not necessarily comparable to typical debtor in possession financings. [REDACTED]

[REDACTED]

32. Consequently, based upon my review of the terms set forth in the Commitment Letter and Fee Letter, it is my opinion that:

- i. The Commitment Letter represents the best offer available for postpetition financing with the greatest likelihood of consummation;
- ii. The Commitment Fee and Expense Reimbursement are necessary and appropriate in order to ensure Silver Point enters into the Proposed Transaction; and
- iii. The terms and conditions of the Commitment Letter, including the related fees and expenses, are fair and reasonable.

25. As a result of the foregoing, I believe that the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors and other stakeholders.

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 25th day of September, 2012.

/s/ Homer Parkhill

**Homer Parkhill,
Managing Director,
Rothschild Inc.**

EXHIBIT A



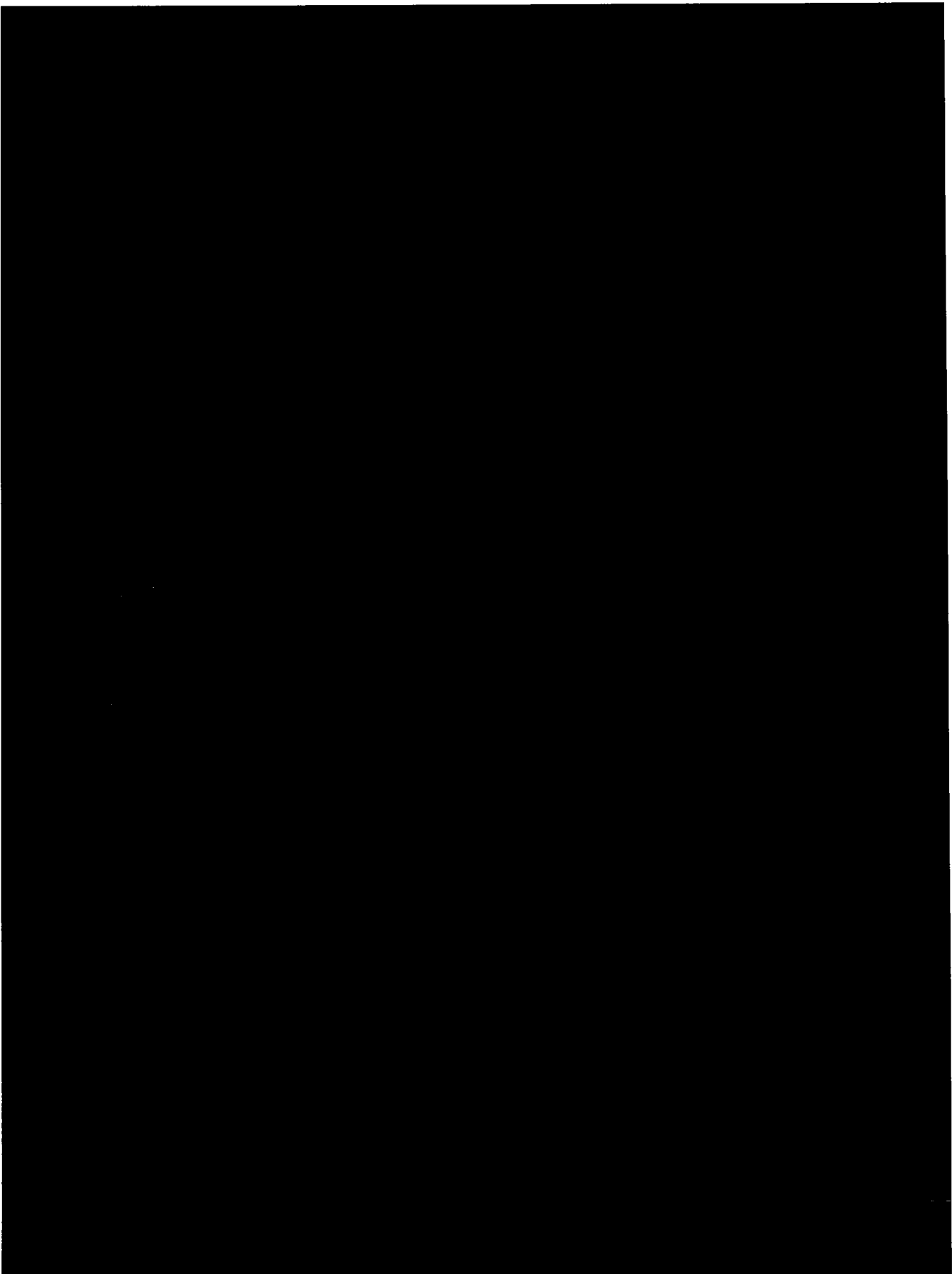
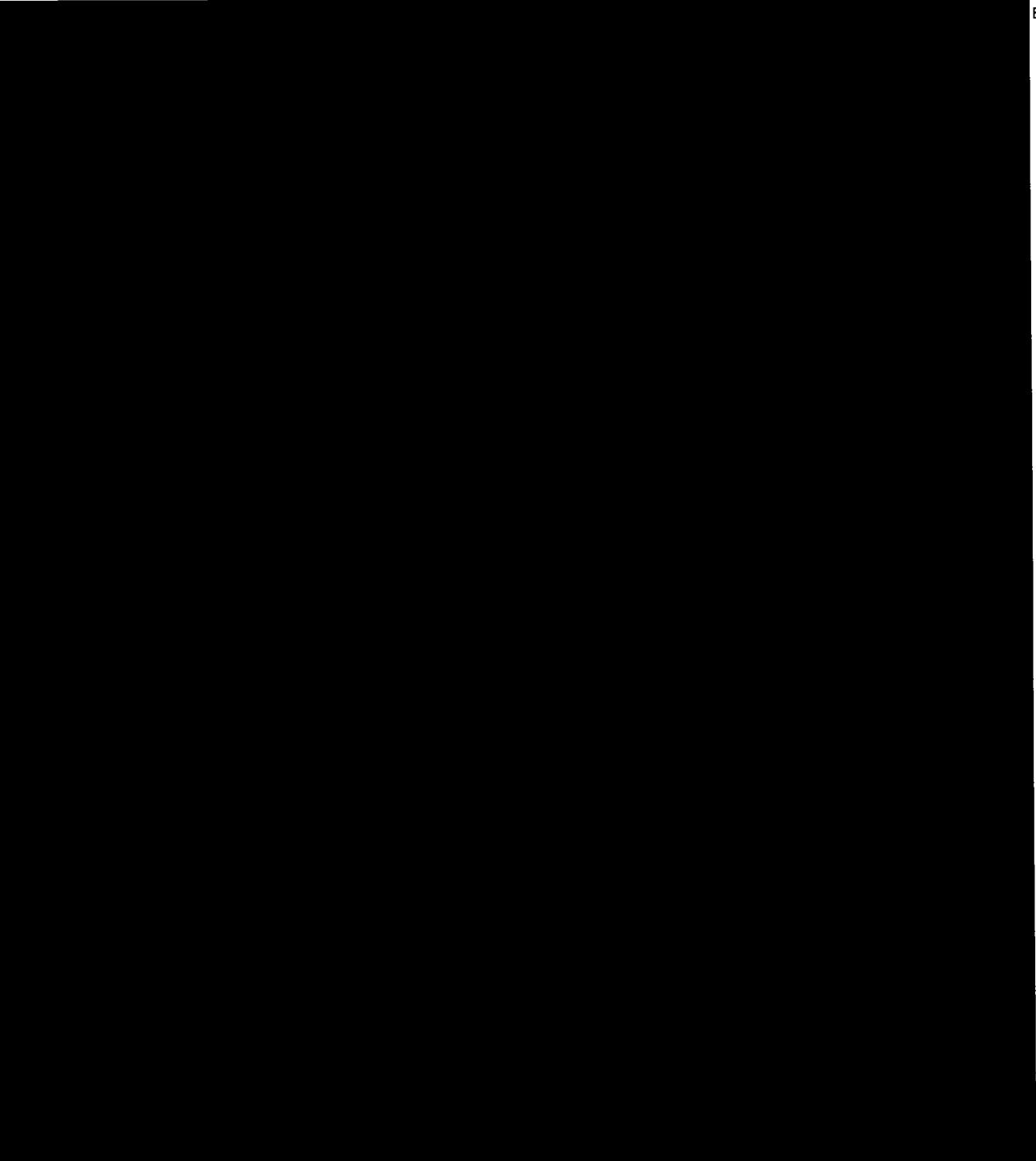


EXHIBIT B





E

EXHIBIT E
FEE LETTER

FILED UNDER SEAL