Objection Deadline: June 3, 2013 at 4:00 p.m. (prevailing U.S. Eastern Time)
Hearing Date and Time: June 10, 2013 at 10:00 a.m. (prevailing U.S. Eastern Time)

GIBSON, DUNN & CRUTCHER LLP
Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew J. Williams (MW-4081)
Joshua Weisser (JW-0185)
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

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

DEBTORS' MOTION FOR ORDER PURSUANT TO 11 U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) AND 552 AND BANKRUPTCY RULES 4001 AND 6004 AUTHORIZING THE DEBTORS TO OBTAIN REPLACEMENT POSTPETITION FINANCING TO REPAY EXISTING POSTPETITION FINANCING

Arcapita Bank B.S.C.(c) ("***Arcapita***"), Arcapita Investment Holdings Limited ("***AIHL***"), Arcapita LT Holdings Limited ("***ALTHL***"), WindTurbine Holdings Limited ("***WindTurbine***"), AEID II Holdings Limited ("***AEID II***") and RailInvest Holdings Limited ("***RailInvest***"), as debtors and debtors in possession (collectively, the "***Debtors***" and each, a "***Debtor***") in the above-captioned chapter 11 cases (collectively, the "***Chapter 11 Cases***") hereby submit this Motion (the "***Motion***") and respectfully represent as follows:

PRELIMINARY STATEMENT[1]

By this Motion, the Debtors seek to enter into a non-priming secured Murabaha financing transaction with a principal amount of up to $175 million. The proposed DIP Transaction (as defined below) will enable the Debtors to successfully repay existing post-petition secured indebtedness and conclude the Chapter 11 Cases.

Numerous reasons justify approval of the proposed DIP Transaction, including:

- Repayment of Maturing Post-Petition Loan: On December 14, 2012, the Debtors entered into the $150 million Fortress Facility (as defined below). Currently, approximately $105 million remains outstanding under the Fortress Facility. The Fortress Facility is scheduled to mature on June 14, 2013. Proceeds of the DIP Transaction, therefore, shall be used in part to repay maturing Fortress Facility obligations in full.

- Liquidity: The Debtors have repaid approximately $45 million of the Fortress Facility, primarily with asset sale proceeds and management fees, as required under the Fortress DIP Agreement's (as defined below) mandatory prepayment provisions. The new DIP Transaction of up to $175 million will not only restore the original availability of the Debtors' DIP financing, but will also provide the Debtors with much needed additional liquidity. Although the Commitment Documents (as defined below) provide for a DIP Facility of up to $150 million, the Debtors have requested additional availability under the DIP Facility of up to $175 million, and Goldman Sachs International ("***Goldman Sachs***") has agreed to provide such additional availability for the DIP Facility subject to the terms and conditions of the Commitment Documents.

- The DIP Transaction Represents the Best Offer Available: The Debtors and the Committee engaged in a thorough and competitive solicitation and negotiation processes to procure the best available financing. The parties continued to negotiate the terms of alternative proposals through the hearing for approval of the Commitment Documents, leading to additional concessions to the estates' benefit. The DIP Transaction has superior economic terms when compared to the other offers received.

[1] Arcapita, a Bahraini entity, is a leading arranger and manager of Shari'ah compliant alternative investments, investments that comply with Islamic banking rules which forbid the charging of interest. One form of Shari'ah compliant financing, a Murabaha, typically consists of a sale by the "lender" of a specific amount of commodities for a set price (which consists of the actual out of pocket costs of the "lender" plus an agreed upon profit) to the "borrower." The "borrower" agrees to pay for the commodities on deferred payment terms. The "borrower" then sells the commodities, for cash, to a third party. The end result is that the "borrower" receives an immediate cash infusion and incurs a future obligation to pay the "lender" the agreed upon price. For ease of reference, this Motion uses terms typical of a loan.

- The DIP Transaction Accords with the SCB Settlement: The SCB Facilities are secured, in part, by pledges of the equity of AEID II, RailInvest and WindTurbine. The DIP Transaction is structured to not impair the value of these pledges. As a result, the Debtors submit, this non-priming transaction complies with the SCB Order (as defined below).

- Exit Facility: At the effective date of the Plan, the DIP Transaction will convert to an exit facility with incremental availability resulting in $350 million of total exit facility obligations. The basic terms of the Exit Facility (as defined below) are addressed in the Commitment Documents. As a result, the DIP Transaction ensures the Debtors have sufficient liquidity during the Chapter 11 Cases and constitute a key step toward establishing adequate post-emergence cash resources.

For the foregoing reasons, the DIP Transaction should be approved. The Official Committee of Unsecured Creditors (the "***Committee***") appointed in these chapter 11 cases has authorized the Debtors to represent that the Committee supports the Motion and the relief requested herein.

JURISDICTION AND VENUE

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

2. The statutory bases for the relief requested herein are sections 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) and 552 of title 11 of the United States Code (the "***Bankruptcy Code***"); Rules 6004 and 4001 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"); and Rule 4001-2 of the Local Bankruptcy Rules for the Southern District of New York (the "***Local Rules***").

BACKGROUND

3. On March 19, 2012 (the "***Petition Date***"), Arcapita and five of its affiliates commenced cases under chapter 11 of the Bankruptcy Code. On April 30, 2012, Falcon Gas Storage Co., Inc. ("***Falcon Gas***") commenced a case under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in

possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. On April 5, 2012, the United States Trustee for Region 2 (the "***United States Trustee***") appointed the Committee [Dkt. No. 60] pursuant to sections 1102(a) and (b) of the Bankruptcy Code.

5. On December 18, 2012, the Court entered its *Final Order Pursuant to 11 U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), and 364(e) and Bankruptcy Rules 4001 and 6004 (I) Authorizing the Debtors (A) to Enter into and Perform Under Murabaha Agreement, and (B) to Obtain Credit on a Secured Superpriority Basis, and (II) Granting Related Relief* [Dkt. No. 727] (the "***Original DIP Order***"), in which the Court approved the Debtors' entry into and performance under that certain Superpriority Debtor-in-Possession Master Murabaha Agreement (the "***Fortress DIP Agreement***" and the financing provided thereunder, the "***Fortress Facility***"), dated December 14, 2012, by and between AIHL and CF ARC LLC (together with its affiliate Fortress Credit Corp., "***Fortress***"). The Fortress Facility matures six months after the execution date, or June 14, 2013.

6. On April 25, 2013, the Debtors filed their *Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors under Chapter 11 of the Bankruptcy Code* [Dkt. No. 1036] (as the same may be further amended or supplemented, the "***Plan***"). On April 26, 2013, the Court approved the related disclosure statement [Dkt. No. 1038] (the "***Disclosure Statement***") by its *Order (I) Approving the Disclosure Statement and the Form and Manner of Notice of the Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling a Confirmation Hearing, and (IV) Establishing Notice and Objection Procedures for Confirmation of the Debtors' Joint Chapter 11 Plan* [Dkt. No.

1045]. A hearing is scheduled for consideration of the Plan on June 11, 2013 or three days before the Fortress Facility's maturity date.

7. On May 2, 2013, the Debtors executed a commitment letter (the "***Commitment Letter***") and related documents (collectively, including the Commitment Letter and a related fee letter (the "***Fee Letter***"), and as later amended by that certain Amendment Agreement, dated May 17, 2013, the "***Commitment Documents***") with Goldman Sachs.[2] The Commitment Documents set forth the basic terms of the DIP Transaction as well as an exit facility with incremental availability (leading to a total of $350 million of principal exit facility obligations) (the "***Exit Facility***"). The Court approved the Debtors' entry into the Commitment Documents on May 17, 2013 [Dkt. No. 1113].

RELIEF REQUESTED

8. By this Motion, and pursuant to sections 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) and 552 of the Bankruptcy Code, and Bankruptcy Rules 6004 and 4001, and Local Rule 4001-2, the Debtors seek entry of a final order (the "***DIP Order***"), substantially in the form attached hereto as ***Exhibit A***, granting the following relief:

(a) authorizing the Debtors to:

(i) obtain secured, superpriority, post-petition Shari'ah compliant financing with a transaction value of up to $175 million (the "***DIP Transaction***") pursuant to the terms and conditions of a Master Murabaha Agreement (as the same may be amended, supplemented, restated or otherwise modified from time to time, the "***DIP Agreement***") to be agreed upon and executed by and between AIHL and Goldman Sachs, in its capacity as Investment Agent (in such capacity, the "***Investment Agent***") for the participants from time to time party to the DIP Agreement (each, a "***DIP Participant***" and collectively, including the Investment

[2] The May 17, 2013 amendment to the Commitment Documents is referred to herein as the "***Commitment Document Amendment***".

Agent, the "***DIP Participants***"), the material terms of which are set forth in the Commitment Documents attached hereto as ***Exhibit B***;[3]

(ii) execute and deliver the DIP Agreement and other documents entered into, executed or delivered in connection with the DIP Transaction (collectively, and together with the DIP Agreement, the "***DIP Transaction Documents***");

(iii) use the proceeds from the DIP Transaction to repay obligations under the Fortress Facility and for general corporate purposes in accordance with the DIP Budget (as defined in the Commitment Documents)[4] and subject to the terms of the DIP Transaction Documents and the DIP Order, respectively; and

(iv) grant to the Collateral Agent (as defined below), for the benefit of itself and the DIP Participants, security interests in and valid, enforceable, non-avoidable and automatically fully perfected liens on and in the now-existing or after-acquired DIP Collateral (as defined below) (with the priority set forth in the DIP Order) to secure the obligations in favor of the DIP Participants arising under the DIP Transaction Documents (collectively, the "***DIP Obligations***");

(b) authorizing the Debtors, in accordance with the terms of the DIP Agreement, to incur DIP Obligations with an aggregate principal amount of up to $175 million;

(c) granting to the DIP Participants superpriority administrative expense claims in the Chapter 11 Cases of the Debtor Obligors (as defined below) with respect to the DIP Obligations and to the extent set forth in the DIP Transaction Documents, subject to (i) the Carve Out (as defined below), (ii) the SCB Guarantee Claims (as defined below), (iii) the SCB Superpriority Claims (as defined in the SCB Order), (iv) SCB's adequate protection as provided in the SCB Order and (v) surviving contractual obligations under the Fortress Facility, where applicable;

(d) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms of the DIP Transaction Documents and the DIP Order; and

(e) granting related relief.

[3] The definitive form of the DIP Agreement will be filed with the Court prior to the hearing on this Motion.

[4] The definitive form of the DIP Budget will be filed with the Court prior to the hearing on this Motion.

BANKRUPTCY RULE 4001 AND LOCAL RULE 4001-2 CONCISE STATEMENT

9. Pursuant to and in accordance with Bankruptcy Rule 4001(c)(1)(B)(i)-(xi) and Local Rule 4001-2(a)-(i), the material provisions of the DIP Agreement and/or the DIP Order that have been agreed upon by the Debtors and Goldman Sachs as of the date hereof, are as follows:[5]

MATERIAL TERMS OF THE DIP TRANSACTION DOCUMENTS	
DIP Agreement Parties[6] *Fed R. Bankr. P. 4001(c)(1)(B)* *Commitment Letter, Annex B-1 to B-2*	DIP Purchaser/Borrower: AIHL Guarantors: (i) Arcapita; (ii) ALTHL; (iii) WindTurbine; (iv) AEID II; (v) RailInvest; (vi) Arcapita Investment Management Limited ("***AIML***"); (vii) Arcapita Inc.; (viii) Arcapita Structured Finance Ltd; (ix) Arcapita Investment Funding Limited ("***AIFL***"); (x) Arcapita Industrial Management I Ltd; (xi) Arcapita (UK) Limited; and (xii) Arcapita Pte. Limited (Singapore) Limited (collectively, with AIHL, the "***Obligors***").[7] Investment Agent: Goldman Sachs or a permitted assignee or designee. Collateral Agent: A financial institution to be mutually agreed. Arranger: Goldman Sachs. DIP Participants: The Investment Agent, certain banks, other financing entities and other persons that from time to time may become party to the applicable investment agency agreement.
DIP Commitments *Local Rule 4001-2(a)(1); Fed. R. Bankr. P. 4001(c)(1)(B)* *Commitment Letter, Annex B-2*	U.S. Dollar term Murabaha facility, with availability up to $175 million (the "***DIP Facility***").[8] Undrawn amounts may be reduced at any time by AIHL, subject to prior notice, minimum reduction amounts and the payment of an administrative fee.
Economics *Fed. R. Bankr. P. 4001(c)(1)(B)*	"***Deferred Sale Price***" (*i.e.* the amount payable by AIHL to the Investment Agent for the purchase of certain commodities to be designated by the parties to the DIP Agreement (the "***Commodities***")) is the aggregate of: (1) the Cost Price; plus (2) the Profit; plus (3) all other unpaid accrued amounts.

[5] As noted previously, the DIP Agreement will be filed by the Debtors as a supplement to this Motion prior to the hearing to consider this Motion. This summary, therefore, is qualified in its entirety by the provisions of the Commitment Documents attached hereto, and ultimately the definitive DIP Agreement and/or the DIP Order to be filed by the Debtors, as applicable. Capitalized terms used in the summary but not otherwise defined therein shall have the meanings set forth in the Commitment Documents. To the extent there are any conflicts between this summary and the terms of the definitive DIP Agreement and/or the DIP Order, as applicable, the terms of the DIP Agreement and/or the DIP Order, as applicable, shall govern.

[6] Note that the Obligors under the Exit Facility differ from the Obligors under the DIP Transaction to correspond to the changes in ownership of the Debtors' assets under the Plan and the terms of the Exit Facility.

[7] AIHL, Arcapita, ALTHL, WindTurbine, AEID II and RailInvest are defined collectively as the "***Debtor Obligors***".

[8] The principal obligations under the DIP Transaction exceed the commitment amount by up to $25 million.

MATERIAL TERMS OF THE DIP TRANSACTION DOCUMENTS	
Commitment Letter, Annex B-5 to B-6; Commitment Document Amendment	"***Cost Price***" means the amount (in U.S. Dollars) payable or paid by the Investment Agent for the purchase of Commodities by the Investment Agent. "***Profit***" means: Cost Price * (Rate) * (N/360), where: • **"*N*"** is the number of days to elapse from, and including, the proposed Transaction Date. • "***Rate***" means the sum of (a) the greater of (i) LIBOR and (ii) 1.5% per annum plus (b) 8.25% per annum payable in cash. The DIP Facility will be subject to an Original Issue Discount of 1.0%.
Late Payment *Fed. R. Bankr. P. 4001(c)(1)(B)* *Commitment Letter, Annex B-6*	The late payment compensation will accrue on a daily basis on the basis of a year of 360 days and shall be calculated in accordance with the following formula: (unpaid amount x (LIBOR for such period as the Investment Agent may select) + 8.25%+ 2.0%)) /360
Funding Conditions *Local Rule 4001-2(a)(2); Local Rule 4001-2(h); Fed. R. Bankr. P. 4001(c)(1)(B)* *Commitment Letter, Annex C*	The DIP Transaction is subject to the following conditions precedent, among others: (i) entry by the Court of the DIP Order, in form and substance reasonably satisfactory to the Investment Agent, by June 10, 2013; (ii) entry by the Grand Court of the Cayman Islands of an order approving the DIP Transaction in the Cayman Islands provisional liquidation proceedings applicable to AIHL (the "***Cayman Proceeding***"); (iii) Debtor obligors shall be in compliance in all respects with the DIP Order and the order approving the DIP Transaction in the Cayman Proceeding; (iv) delivery of definitive documents, the DIP Budget[9] and audited financial statements of AIHL; (v) payment of fees, costs and expenses and evidence thereof; (vi) approval by Arcapita's Sharia'a Board of the DIP Transaction Documents; (vii) delivery of legal opinions, corporate records and documents from public officials, lien searches and officer's certificates; (viii) delivery of evidence of authority to enter into DIP Transaction Documents; (ix) obtaining material third party and governmental consents necessary in connection with the DIP Facility; (x) evidence of the appointment of a process agent for each Obligor; (xi) execution and delivery of the DIP Transaction Documents by each of the parties to them and all documents and other instruments to be delivered to the Investment Agent in accordance with the DIP Transaction Documents; (xii) absence of litigation affecting the DIP Facility; (xiii) evidence of compliance by each Obligor with their obligations under all applicable security documents; (xiv) evidence that, concurrently with the satisfaction of these conditions, all indebtedness of the Obligors and their respective subsidiaries with respect to the Fortress Facility shall have been satisfied, and all liens and security interests related thereto shall have been terminated or released; (iv) delivery of evidence of insurance; and (xvi) perfection of liens, pledges and mortgages on the DIP Collateral (as defined below).
Fees and Expenses *Local Rule 4001-2(a)(3); Fed. R. Bankr. P. 4001(c)(1)(B)* *Fee Letter*	AIHL shall pay the reasonable out-of-pocket expenses of the Investment Agent, including expenses associated with syndication of the DIP Facility and the fees and disbursements of the Investment Agent's attorneys and advisors, as well as any taxes, arising in connection with the DIP Transaction Documents. AIHL shall also pay the fees in the amounts agreed in the Fee Letter. AIHL shall also pay the losses or expenses incurred by the DIP Participants as a consequence of making funds available under the DIP Facility.
Priority and Liens *Local Rule 4001-2(a)(4); Fed. R. Bankr. P. 4001(c)(1)(B)(i)*	The DIP Obligations of each Debtor under the DIP Agreement: i. pursuant to section 364(c)(1) of the Bankruptcy Code, shall constitute allowed superpriority administrative claims, *provided* that so long as the SCB Facilities obligations are outstanding, the guarantees of and superpriority claims against AEID II, RailInvest and WindTurbine under the

[9] The DIP Budget, once filed by the Debtors, will accurately reflect the payment of all administrative expenses due or accruing during the term of the DIP Facility.

MATERIAL TERMS OF THE DIP TRANSACTION DOCUMENTS	
Commitment Letter, Annex B-8 to B-9	DIP Transaction shall be subordinated to the SCB Guarantees; ii. pursuant to section 364(c)(2) of the Bankruptcy Code, shall be secured by a perfected first-priority lien on all assets of the Debtors, in each case, that are not otherwise subject to SCB's liens; provided that any claim secured by a lien granted on any asset of WTHL, AEID II or RailInvest shall be subordinate in right of payment to the SCB Facilities and iii. pursuant to section 364(c)(3) of the Bankruptcy Code, a perfected junior lien on all now owned or after acquired assets of the Debtors 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 (but not granted) subsequent to the Petition Date pursuant to section 546(b) of the Bankruptcy Code (including, in each case and for so long as the obligations under the SCB Facilities remain unpaid, SCB's liens on the equity of AEID II, RailInvest and WindTurbine) subject and subordinate in each case with respect to subclauses (i) through (iii) above, to the Carve Out. Notwithstanding the foregoing, the liens described above shall not attach to avoidance actions or the proceeds thereof. The assets of non-Debtor Obligors will also serve as collateral for the DIP Facility (together with the Debtors' assets referred to in subclauses (ii) and (iii), the "***DIP Collateral***").
Adequate Protection *Local Rule 4001-2(a)(4); Fed. R. Bankr. P. 4001(c)(1)(B)(ii)* *DIP Order, ¶ 10(b)(ii)*	The SCB Order will not be modified, altered, amended or superseded, and it remains in full force and effect, including with respect to any grant of adequate protection to SCB thereunder.
Carve Out *Local Rule 4001-2(a)(5); Fed. R. Bankr. P. 4001(c)(1)(B)* *DIP Order, ¶ 14(c)*	The term "***Carve Out***" means: i. any unpaid fees of the Clerk of the Bankruptcy Court and to the U.S. Trustee under 28 U.S.C. § 1930(a); ii. reasonable fees and expenses approved by the Court incurred by a trustee, not to exceed $25,000; iii. reasonable and documented expenses of Committee members in an amount not to exceed $200,000; iv. all unpaid fees and expenses allowed by the Court of professionals or professional firms retained by the Debtors or the Committee and the reasonable fees and expenses of the joint provisional liquidators appointed in the Cayman Islands liquidation proceedings of AIHL (the "***Joint Provisional Liquidators***" and together with Debtor and Committee professionals, the "***Professional Persons***") that were accrued or incurred, as applicable through the date upon which AIHL and the Committee receive from the Investment Agent a written notice of the occurrence of an Event of Default (as defined below) and the Investment Agent's intention to invoke the Carve Out (the "***Carve Out Notice***"); and v. all fees and expenses of Professional Persons incurred after the date upon which AIHL receives the Carve Out Notice, in the aggregate amount not to exceed $15,000,000.
Covenants *Local Rule 4001-2(a)(8); Fed. R. Bankr. P. 4001(c)(1)(B)* *Commitment Letter, Annex*	AIHL shall: • deliver certain documents and reports to the Investment Agent, including, but not limited to, financial statements, DIP Budgets, DIP Budget Variance Reports, compliance with non-restructuring disbursements set forth in the DIP Budget on an aggregate basis subject to a permitted variance of 10% from the aggregate test period and carry-forward of amounts not utilized during any testing period for use during any subsequent period, certain pleadings in the Chapter 11 Cases

MATERIAL TERMS OF THE DIP TRANSACTION DOCUMENTS	
B-16 to B-20	relating to the DIP Facility and the Plan, notices of litigation, defaults and other reasonably requested information, and notice of any event adversely affecting the DIP Collateral; • oppose the approval of any plan of reorganization that does not provide for payment of DIP Facility obligations in full or the conversion of the DIP Facility in full to the Exit Facility upon the effective date of such plan (unless consent of the Investment Agent and the DIP Participants is obtained); and • perform other acts required by customary affirmative covenants. AIHL and other Obligors will also be subject to other customary negative covenants with respect to limitations on financing obligations; liens; negative pledges; capital expenditures; restricted junior payments (e.g. no dividends, redemptions or voluntary payments on certain financing obligations); restrictions on subsidiary distributions; investments, mergers and acquisitions; sales of assets; sales and lease-backs; transactions with affiliates; conduct of business; activities of the Obligors and their subsidiaries; amendments and waivers of organizational documents, junior financing obligations and other material contracts; use of proceeds in violation of the Foreign Corrupt Practices Act; and changes to fiscal year, including, in each case, exceptions and baskets to be mutually agreed upon.
Financial Covenants	AIHL will also be required to maintain minimum liquidity of $15 million, including any undrawn portion of the DIP Facility, and maintain Loan-to-Value/Collateral Coverage Ratio of not less than 2.00x, to be tested quarterly.
Purpose and Limitations *Local Rule 4001-2(a)(9); Fed. R. Bankr. P. 4001(c)(1)(B)* *Commitment Letter, Annex B-11 to B-12*	The proceeds of the DIP Facility will be used for: • payment of transaction costs, profits, fees and expenses incurred in connection with the DIP Facility; • repayment of the Fortress DIP Facility; • working capital and other general corporate purposes; and • adequate protection payments to SCB. The proceeds of the DIP Facility may not be used to commence or prosecute any action, proceeding or objection with respect to causes of action, financing obligations or obligations related to or arising out of the DIP Facility.
Termination Date; Maturity *Local Rule 4001-2(a)(10); Fed. R. Bankr. P. 4001(c)(1)(B)* *Commitment Letter, Annex B-7*	• DIP Termination Date: The DIP Facility will mature on July 31, 2013; provided that, in the event that the entry of the Confirmation Order will be delayed beyond July 31, 2013, the DIP Termination Date may be extended at AIHL's option to September 30, 2013.
Events of Default *Local Rule 4001-2(a)(10); Fed R. Bankr. P. 4001(c)(1)(B)* *Commitment Letter, Annex B-21 to Annex B-24*	An "***Event of Default***" includes: • Entry of an order (a) dismissing the Chapter 11 Cases, (b) converting such cases to cases under chapter 7, (c) appointing a chapter 11 trustee or examiner, (d) granting any other claim (other than SCB Claims or surviving claims under the Fortress DIP Facility) superpriority status or lien equal or superior to that granted to the Investment Agent, (e) staying, reversing, vacating or modifying the DIP Facility or the DIP Order without the prior written consent of the Investment Agent, or (f) granting relief from the automatic stay so as to allow a third party to proceed against any asset of any Obligor with a value in excess of $100 million; • AIHL's failure to make payments under the DIP Facility when due; • Occurrence of a material adverse event in the Cayman Proceeding;

MATERIAL TERMS OF THE DIP TRANSACTION DOCUMENTS	
	• Failure to comply with financial or other covenants; • Material inaccuracies in any representation or warranty made by any Obligor; • Violation of any material term in the DIP Order; • Default under another agreement or financing arrangement (including under the SCB Settlement Order), provided that such default will result in $10 million or more in liability; • Repudiation of obligations under the DIP Facility, impairment of security interest in the DIP Collateral or invalidity of guarantees or any obligation or security; • Occurrence of a change of control; • Entry of an order or filing authorizing or seeking unpermitted additional post-petition financing, liens on DIP Collateral, modification of the DIP Transaction Documents or any action adverse to the Investment Agent or any DIP Participant; • Commencement of any action, adversary proceeding or motion against the Investment Agent or the DIP Participants by any Debtor or its affiliates, officers or employees; • The DIP Order ceasing to be in full force and effect or modification or amendment of same without prior written consent of the Investment Agent; • Allowance of any claim under Section 506(c) of the Bankruptcy Code against the Investment Agent, the DIP Participants and the DIP Collateral; and • Filing of a plan or disclosure statement that does not provide for payment in full in cash of the obligations under the DIP Facility, the conversion of the DIP Facility into the Exit Facility or otherwise treats the claims of the Investment Agent and the DIP Participants in a manner to which they do not consent.
Automatic Stay & Remedies *Local Rule 4001-2(a)(10); Fed. R. Bankr. P. 4001(c)(1)(B)(iv)* *DIP Order, ¶ 18*	The automatic stay provisions of section 362 of the Bankruptcy Code are vacated and modified to the extent necessary, without the need for any further order of the Court to permit the Investment Agent and/or Collateral Agent to exercise, upon not less than seven (7) days' written notice to the Debtors following the occurrence and continuation of any Event of Default under the DIP Transaction Documents, all rights and remedies under the DIP Transaction Documents.
Change of Control *Local Rule 4001-2(a)(11)* *Commitment Letter, Annex B-8*	A Change of Control shall constitute an Event of Default.
Repayment *Local Rule 4001-2(a)(13)* *Commitment Letter, Annex B-13 to Annex B-15*	Mandatory prepayments required upon receipt of: • Cash proceeds with respect to asset sales, subject to formulas and provisions determining the exact proportion of such proceeds allowed to be retained by the Debtors; • Insurance proceeds, except for those proceeds which are excluded under the DIP Agreement, relating to the loss of any property or assets of the Obligors or relevant subsidiaries; • Proceeds of incurrence of financing obligations (other than financing obligations otherwise permitted under the DIP Agreement); Payment of the DIP Facility obligations in full in cash required upon effective date of a chapter 11 plan for the Debtors, the date of dismissal of the Chapter 11 Cases or conversion thereof to cases under

MATERIAL TERMS OF THE DIP TRANSACTION DOCUMENTS	
	chapter 7 or sale of all or substantially all of the Obligors' assets. No mandatory prepayments required upon equity raise, cash distributions relating to Falcon Gas, sale or disposition of assets subject to priority in favor of SCB. Voluntary prepayments may be made at any time subject to notice requirements, a minimum required amount and, prior to the second anniversary of the Conversion Date, an administration fee of 1% of the voluntary prepayment.
Joint Liability *Local Rule 4001-2(a)(14); Fed. R. Bankr. P. 4001-2(e)*	• All Obligors are jointly and severally liable for the DIP Obligations. • Falcon Gas is not liable for any of the DIP Obligations.
Release and Indemnification *Fed. R. Bankr. P. 4001(c)(1)(B)(ix)* *Commitment Letter, Annex B-25 to Annex B-26*	• The Obligors will provide customary releases and exculpations for any claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, financing obligations, or obligations related to or arising out of the DIP Transaction. • The DIP Agreement will provide customary and appropriate provisions relating to indemnity and related matters in a form reasonably satisfactory to the Investment Agent and the Participants which provisions shall expressly survive the effective date of any chapter 11 plan for the Debtors and any discharge of the Debtors.
Waivers and Consents *Fed. R. Bankr. P. 4001(c)(1)(B)(x)* *DIP Order, ¶ 21*	The Debtors (for themselves and their estates) irrevocably waive and relinquish any rights they may have under section 506(c) of the Bankruptcy Code with respect to the DIP Collateral.
Exit *Commitment Letter*	The DIP Facility may be converted to a Murabaha exit facility, subject to the Debtors' satisfaction of certain conditions precedent and other terms.

DEBTORS' SECURED DEBT[10]

10. Arcapita is the prepetition borrower under two secured Murabaha facilities made available by Standard Chartered Bank ("***SCB***"): (a) a $50 million facility dated May 30, 2011, of which approximately $46.6 million was outstanding at the Petition Date and which matured on March 28, 2012 (the "***SCB May 2011 Facility***"); and (b) a $50 million facility dated December 22, 2011, of which approximately $50.1 million was outstanding at the Petition Date

[10] The descriptions of the Debtors' secured facilities and the collateral securing such facilities provided herein do not constitute, and should not be construed as, an admission by the Debtors regarding the validity, permissibility, enforceability, perfection or amount of any obligation, claim, guarantee, lien, mortgage, pledge or other security interest, or any other fact with respect thereto.

and which matured on March 28, 2012 (the "***SCB December 2011 Facility***," and together with the SCB May 2011 Facility, the "***SCB Facilities***").

11. The SCB May 2011 Facility is guaranteed by each of AIHL, ALTHL and WindTurbine. These guarantees are secured by: (a) a first priority pledge of AIHL's shares in ALTHL; (b) a first priority pledge of ALTHL's shares in WindTurbine; and (c) a second priority pledge of ALTHL's shares in AEID II and RailInvest. The SCB December 2011 Facility is guaranteed by each of AIHL, ALTHL, WindTurbine, AEID II, and RailInvest. These guarantees are secured by: (i) a second priority pledge of AIHL's shares in ALTHL; (ii) a first priority pledge of ALTHL's shares in AEID II and RailInvest; and (iii) a second priority pledge in ALTHL's shares in WindTurbine. Pursuant to the SCB Facilities, SCB maintains claims against AEID II, RailInvest and WindTurbine (collectively, the "***SCB Guarantee Claims***") and a lien on their equity.

12. On October 19, 2012, the Court entered its *Order pursuant to section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing and Approving the Settlement with Standard Chartered Bank* [Dkt. No. 587] (including the settlement term sheet annexed as "Exhibit 1" thereto, the "***SCB Order***").

13. Pursuant to the Original DIP Order, the Debtors are also obligors under the Fortress Facility, which initially provided up to $150 million of availability. Currently, approximately $105 million remains outstanding under the Fortress Facility. The Debtors have repaid approximately $45 million of the Fortress Facility, primarily with asset sale proceeds and management fees, as required under the Fortress DIP Agreement's mandatory prepayment provisions. *See Declaration of John Makuch in Support of Debtors' Motion for Order pursuant to 11 U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) and 552 and*

Bankruptcy Rules 4001and 6004 Authorizing the Debtors to Obtain Replacement Postpetition Financing To Repay Existing Postpetition Financing (the "***Makuch Declaration***") attached hereto as ***Exhibit C***, at ¶ 8. The Debtors' obligations under the Fortress Facility are secured by first priority liens on substantially all assets of Arcapita, AIHL and ALTHL not subject to security interests in favor of SCB (as well as the asset of certain non-Debtor affiliates), and second priority liens, subordinate to security interests in favor of SCB, for such entities' assets subject to SCB's security interests.

PROPOSED DIP TRANSACTION

I. Debtors' Need for Post-Petition Financing

14. The Debtors have two primary uses for the proceeds of the DIP Transaction: (a) repayment of the Fortress Facility and (b) general corporate purposes. The Fortress Facility is scheduled to mature on June 14, 2013. If the Debtors are unable repay the outstanding Fortress Facility obligations on that date, Fortress could declare a default and seek to enforce remedies against the collateral securing the Debtors' obligations, subject to the terms of the Original DIP Order. *See* Fortress DIP Agreement, Clause 14. In addition, upon and after the occurrence of a default under the terms of the Fortress DIP Agreement, Fortress may charge the estates a profit rate equal to 6% above the existing profit rate on the Fortress Facility. *See* Fortress DIP Agreement, Clause 6.5(b).

15. With the confirmation hearing currently scheduled for June 11, 2013, there is reasonable probability that Debtors will be unable to consummate a plan of reorganization that generates sufficient cash to repay the Fortress Facility by the Fortress Facility maturity date, three days later. The DIP Transaction will give the Debtors additional time to consummate the Plan. The maturity date under the DIP Transactions is July 31, 2013; provided that, the maturity date may be extended at the Purchaser's request in accordance with the DIP Agreement.

16. The DIP Transaction will also provide the Debtors with additional liquidity during the cases. The Debtors, all of which are holding companies, expend a significant amount of available cash to fund restructuring costs and to support the value of their portfolio companies and investments (collectively, the "***Arcapita Group Investments***").[11] Since the execution of the Fortress Facility, distributions from the portfolio have all been utilized to repay the loan. The DIP Transaction will restore the amount of availability under the financing, and provide the Debtors with millions of incremental availability in addition to the restored availability amount.

17. Despite the Debtors' diligent cash management efforts, the Debtors require the DIP Transaction to maintain their businesses without disruption during the Chapter 11 Cases, to maximize the value of their assets and the estates and to bridge the cases to emergence. The Debtors continue to incur substantial deal funding costs. Non-Debtor portfolio companies require cash from time to time to bridge them to realization events. And, while emergence may be near, additional liquidity may be required to bridge the Debtors to the projected plan effective date. Makuch Declaration ¶¶ 8-9. Absent additional liquidity, as of June 22, 2013, the Debtors project to have approximately $900,000 to fund additional expenses during the remainder of the Chapter 11 Cases. Makuch Declaration ¶ 6.

II. Exit Facility

21. The Debtors' solicitation of potential financing sources related to financing required to consummate the Plan, not just repayment of the Fortress Facility. The Debtors solicited proposals for additional financing that would be available both before and after their emergence from chapter 11 under the Plan. An appropriately sized financing would finance the Debtors through an effective date of the Plan to projected post-emergence monetization events.

[11] In general, the Debtors' expenditures during the Chapter 11 Cases have been made with the support of both the Committee and the Joint Provisional Liquidators.

The Commitment Documents expressly provide binding commitments to the DIP Transaction and the Exit Facility and will provide the Debtors with greater access to proceeds of future monetization events through more lenient prepayment provisions. Annex C of the Commitment Letter separately states the conditions precedent to both financings. The Debtors project that the up to $350 million of total availability, when coupled with the DIP Agreement's relatively lenient prepayment provisions, will adequately fund the proposed structured wind down of the Debtors' estates to the benefit of all stakeholders.

III. Marketing and Negotiations Leading to the DIP Transaction

26. In connection with the DIP Transaction, the Debtors engaged in an extensive and thorough solicitation and negotiation process. The *Declaration of Bernard Douton in Support of Debtors' Motion for the Entry of an Order Authorizing the Debtors to (A) Enter into a Financing Commitment Letter and Related Fee letter to Obtain (I) Replacement DIP Financing and (II) Exit Financing, (B) Incur and Pay Associated Fees and Expenses, and (C) Provide Related Indemnities* [Dkt. No. 1095] (the "***Douton Declaration***") provides an in depth summary of the solicitation and negotiation processes.

27. The Debtors commenced solicitation for additional financing in February 2013. Douton Declaration ¶ 9. The Debtors' principal focus in that solicitation was on financial institutions that participated in the informal financing auction administered by the Debtors in the fall of 2012. It was thought that those parties had undertaken substantial diligence previously and would be best positioned to structure exit financing proposals without the need for additional and time-consuming due diligence. Id.

28. On April 11, 2013, Fortress delivered to the Debtors its first proposal. Douton Declaration ¶ 10. Goldman delivered its initial proposal eight days later. Id. From April 11 until the approval of the final version of the Goldman Commitment Letter on May 17, 2013,

Fortress, Goldman, the Debtors and the Committee engaged in multiple rounds of extensive, good-faith and arms' length negotiations relating to the terms of the bidders' respective offers. Specifically, after several initial rounds of negotiations, the Debtors requested that Fortress and Goldman put forward their final proposals on April 24, 2013. After reviewing both final proposals, the Debtors concluded that Goldman Sachs' April 24 proposal was the highest and best proposal available. The following day, despite the passing of the April 24 deadline, Fortress submitted a revised proposal to the Debtors. Following discussions with the Committee and the Court, the Court set the final deadline for bids to be submitted under the Court's supervision at 1:30 p.m. on May 15, 2013. After complete review by the Debtors and Committee, the Debtors announced at hearing on May 15, 2013 that the final proposal of Goldman Sachs was the highest and best proposal available. Following that announcement, the binding commitment from Goldman Sachs to provide Shari'ah compliant financing pursuant to the Commitment Documents was approved by this Court and an order approving the Commitment Documents was entered on May 17, 2013.

29. The Debtors were unable to obtain the same amount of post-petition financing from an alternative DIP provider or providers on more favorable terms than those set forth in the proposed DIP Transaction. The alternative proposals the Debtors received were on worse economic terms.

IV. The DIP Transaction Accords with the SCB Order

30. The DIP Transaction will not modify, alter, amend or supersede the SCB Order, including in connection with any adequate protection provided to SCB thereunder. The SCB Order remains in full force and effect. DIP Order, ¶ 11.

BASIS FOR RELIEF REQUESTED

I. The Debtors' Entry into the DIP Transaction Documents is an Exercise of the Debtors' Sound Business Judgment

31. A bankruptcy court should grant the debtor wide deference to act in accordance with its sound business judgment in obtaining financing. *See In re Barbara K. Enters., Inc.*, 2008 WL 2439649, at *14 (Bankr. S.D.N.Y. June 16, 2008) (noting that courts defer to a debtor's sound business judgment "so long as a request for financing does not 'leverage the bankruptcy process' and unfairly cede control of the reorganization to one party in interest."); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("cases consistently reflect that the court's discretion under section 364 [of the Bankruptcy Code] is to be utilized on grounds that permit [a debtor's] reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.").

32. The Debtors' execution of the DIP Transaction Documents and performance under such documents and the DIP Order comprise an exercise of their sound business judgment, warranting approval of this Motion. Approval of the DIP Agreement will provide the Debtors with immediate and ongoing access to cash proceeds of the DIP Transaction intended to repay existing obligations on the maturing Fortress Facility, to fund ongoing operating expenses, including post-petition wages and salaries, and to make scheduled deal funding payments required to preserve the value of the Debtors' assets. As discussed above, additional liquidity is an essential component of the Debtors' proposed emergence: the Debtors project to have just $900,000 as of the next omnibus hearing. Further, approval of the DIP Agreement is a key step towards approval and availability of the Exit Facility.

33. Finally, as noted above, the terms and conditions of the DIP Transaction are fair and reasonable, and were negotiated extensively among the Debtors, the Committee and the Investment Agent after considerable marketing and negotiation. The multiple rounds of negotiations that took place before and through the hearing for approval of the Commitment Documents ensure that the DIP Agreement is on the best available terms. Consummation of the DIP Transaction is in the best interest of the Debtors' estates, their creditors and all parties in interest in the Chapter 11 Cases and is consistent with the Debtors' exercise of their fiduciary duties.

II. The Court Should Authorize the Debtors to Obtain Post-Petition Financing on a Secured and Superpriority Basis.

34. Pursuant to this Motion, the Debtors seek authority to incur financing secured, in part, by a first lien on certain unencumbered property and a second lien on the existing pledges in favor of SCB. The proposed DIP Transaction is non-priming.

35. Section 364(c) of the Bankruptcy Code provides, among other things, that if a debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code, the Court may authorize the debtor to obtain credit or incur debt (i) with priority over any and all administrative expenses as specified in section 503(b) or 507(b) of the Bankruptcy Code, (ii) secured by a lien on property of the estate that is not otherwise subject to a lien or (iii) secured by a junior lien on property of the estate that is subject to a lien. 11 U.S.C. § 364(c).

36. A debtor seeking to satisfy the requirements of section 364(c) need only demonstrate "by a good faith effort that credit was not available" to the debtor on an unsecured or administrative expense basis. *Bray v. Shenandoah Fed. Sav. & Loan Ass'n (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986). "The statute imposes no duty to seek credit from

every possible lender before concluding that such credit is unavailable." *Id.*; *see also Pearl-Phil GMT (Far East) Ltd. v. Caldor Corp.*, 266 B.R. 575, 584 (S.D.N.Y. 2001) (superpriority administrative expenses authorized where debtor could not obtain credit as an administrative expense). When few lenders are likely to be able and willing to extend the necessary credit to a debtor, "it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff'd sub nom., Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n.4 (N.D. Ga. 1989); *see also Ames*, 115 B.R. at 40.

37. As noted earlier, the Debtors, in close consultation with the Committee, engaged in months of marketing and negotiation with respect to the DIP Transaction. No potential DIP provider was willing to advance money on better terms without receiving security interests on the Debtor Obligors' assets. The grant of collateral and superpriority claims to the Investment Agent thus satisfies section 364 of the Bankruptcy Code.

III. The Court Should Authorize the Debtors to Sell the Commodities

38. Section 363(b) of the Bankruptcy Code provides 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). A debtor must demonstrate a sound business justification for a sale or use of assets outside the ordinary course of business. *See, e.g.*, *Licensing by Paolo, Inc. v. Sinatra* (*In re Gucci*), 126 F.3d 380, 387 (2d Cir. 1997); *Comm. of Equity Sec. Holders v. Lionel Corp*. (*In re Lionel Corp*.), 722 F.2d 1063, 1070 (2d Cir. 1983). Further, "[w]here 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 and/or Creditors v. Johns-Manville Corp*. (*In re Johns-Manville Corp*.), 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). In addition, section 105(a) of

the Bankruptcy Code confers upon the Court broad equitable powers to fashion relief in accordance with the policies underlying the Bankruptcy Code.

39. As noted above, the DIP Transaction is a Shari'ah complaint transaction, structured as a purchase and sale of commodities with deferred payment terms. For the reasons set forth above, the DIP Transaction, including its component parts, is supported by sound business justifications and should be approved by this Court. To the extent the purchase and sale of the Commodities by the Debtors is out of the ordinary course of business, reasonable business judgment in support of the DIP Transaction exists to satisfy section 363(b) of the Bankruptcy Code.

IV. The Scope of the Carve Out is Appropriate

40. The proposed DIP Transaction subjects the security interests and administrative expense claims of the DIP Participants to a Carve Out, the terms of which mirror those under the Fortress Facility. Carve outs for professional fees have been found to be reasonable and necessary to ensure that a debtor's estate and any statutory committee can retain assistance from counsel. *See Ames*, 115 B.R. at 40. The DIP Transaction does not directly or indirectly deprive the Debtors' estates or other parties in interest of possible rights and powers by restricting the services for which professionals may be paid in these cases. *See id*. at 38 (observing that courts insist on carve outs for professionals representing parties in interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced."). The Carve Out protects against administrative insolvency during the Chapter 11 Cases by ensuring that assets remain for the payment of United States Trustee and Professional Persons notwithstanding the grant of superpriority and administrative liens and claims under the DIP Transaction.

V. The DIP Participants Should Be Deemed Good Faith Lenders under Section 364(e)

41. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Section 364(e) provides that:

> The reversal or modification on appeal of an authorization under this section to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e).

42. As explained in detail in the Douton Declaration, the DIP Transaction Documents are the result of the Debtors' reasonable and informed determination that the Investment Agent offered the most favorable terms on which to obtain needed post-petition financing, and of extended arms'-length, good faith negotiations between the Debtors, Committee and the Investment Agent. The terms and conditions of the DIP Transaction Documents are fair and reasonable, and the proceeds of the DIP Transaction will be used only for the purposes that are permissible under the Bankruptcy Code.

VI. The Automatic Stay Should Be Modified on a Limited Basis

43. The relief requested herein contemplates a modification of the automatic stay (to the extent applicable) to permit: (a) the Debtors to grant the security interests, liens and superpriority claims described above and to perform such acts as may be requested to assure the perfection and priority of such security interests and liens; (b) the Debtors to incur the DIP Obligations under the DIP Transaction Documents and the DIP Order; and (c) the DIP Participants to exercise and enforce their rights and remedies as provided in the DIP Order. The

DIP Transaction Documents provide, however, that the DIP Participants must provide the Debtors and various other parties, including the United States Trustee and counsel to the Committee, with seven days' notice before exercising any enforcement rights or remedies.

44. Stay modifications of this kind are ordinary and standard features of post-petition debtor in possession financing facilities and, in the Debtors' business judgment, are appropriate under the present circumstances, and were required to secure the DIP Participants' agreement to enter into the DIP Transaction Documents. *See, e.g., In re Arcapita Bank B.S.C.(c)*, Case No. 12-11076 (Bankr. S.D.N.Y. Dec. 18, 2012) [Dkt. No. 727]; *In re Great Atl. & Pac. Tea Co.*, Case No. 10-24549 (Bankr. S.D.N.Y Jan. 11, 2011) [Dkt. No. 479]; *In re Tronox Inc.*, Case No. 09-10156 (Bankr. S.D.N.Y. Jan. 15, 2010) [Dkt. No. 1115]; *In re Gen. Growth Props. Inc.*, Case No. 09-11977 (Bankr. S.D.N.Y. May 14, 2009) [Dkt. No. 527]; *In re Chemtura Corp.*, Case No. 09-11233 (Bankr. S.D.N.Y. Apr. 29, 2009) [Dkt. No. 281].

NOTICE

50. 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: (a) 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.); (b) 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; (c) Latham & Watkins LLP, 885 3rd Avenue, New York, New York 10022 (Attn: Mitchell Seider, Esq. and Adam Goldberg, Esq.), counsel for Goldman Sachs International, as Investment Agent; (d) Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036 (Attn: Brian E. Greer, Esq. and Nicole Herther-Spiro, Esq.), counsel to SCB; (e) Skadden, Arps, Slate, Meagher & Flom LLP, 155 N. Wacker Drive, Chicago, Illinois 60606

(Attn: David Kolin, Esq. and Brandon Duncomb, Esq.), counsel to Fortress and (vi) 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

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

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

Dated: New York, New York
May 27, 2013

Respectfully submitted,

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew J. Williams (MW-4081)
Joshua Weisser (JW-0185)
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

Exhibit A

Proposed DIP Order

Exhibit B

Commitment Documents

Exhibit C

Makuch Declaration

Objection Deadline: June 3, 2013 at 4:00 p.m. (prevailing U.S. Eastern Time)
Hearing Date and Time: June 10, 2013 at 10:00 a.m. (prevailing U.S. Eastern Time)

GIBSON, DUNN & CRUTCHER LLP
Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew J. Williams (MW-4081)
Joshua Weisser (JW-0185)
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

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

NOTICE OF DEBTORS' MOTION FOR ORDER PURSUANT TO 11 U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) AND 552 AND BANKRUPTCY RULES 4001 AND 6004 AUTHORIZING THE DEBTORS TO OBTAIN REPLACEMENT POSTPETITION FINANCING TO REPAY EXISTING POSTPETITION FINANCING

PLEASE TAKE NOTICE that on May 27, 2013, Arcapita Bank B.S.C.(c) ("***Arcapita***"), Arcapita Investment Holdings Limited ("***AIHL***"), Arcapita LT Holdings Limited ("***ALTHL***"), WindTurbine Holdings Limited ("***WindTurbine***"), AEID II Holdings Limited ("***AEID II***") and RailInvest Holdings Limited ("***RailInvest***"), as debtors and debtors in possession (collectively, the "***Debtors***") in the above-captioned chapter 11 cases (collectively, the "***Chapter 11 Cases***") filed the annexed *Debtors' Motion for Order Pursuant to 11 U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) and 552 and Bankruptcy Rules 4001 and 6004*

Authorizing the Debtors to Obtain Replacement Postpetition Financing to Repay Existing Postpetition Financing (the "***Motion***").

PLEASE TAKE FURTHER NOTICE that a hearing (the "***Hearing***") to consider the Motion will take place before the Honorable Sean H. Lane, United States Bankruptcy Judge, in Room 701 of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408 (the "***Bankruptcy Court***") on **June 10, 2013 at 11:00 a.m. (prevailing U.S. Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any and all objections to the Motion (the "***Objections***") shall be filed electronically with the Court on the docket of *Arcapita Bank B.S.C.(c), et al.*, Ch. 11 Case No. 12-11076 (SHL) (the "***Docket***"), pursuant to the Case Management Procedures approved by this Court and the Court's General Order M-399 (available at http://nysb.uscourts.gov/orders/orders2.html), by registered users of the Court's case filing system and by all other parties in interest on a 3.5 inch disk, preferably in portable document format, Microsoft Word, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 on (a) counsel for the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York, 10166 (Attn: Michael A. Rosenthal, Esq. and Matthew K. Kelsey, Esq.); (b) 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.); (c) 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.); and (d) Latham & Watkins LLP, 885 3rd Avenue, New York, New York 10022 (Attn: Mitchell Seider, Esq. and

Adam Goldberg, Esq.), so as to be received no later than **June 3, 2013 at 4:00 p.m. (prevailing U.S. Eastern time)** (the "***Objection Deadline***").

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

Dated: New York, New York
May 27, 2013

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew J. Williams (MW-4081)
Joshua Weisser (JW-0185)

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

Exhibit A

Proposed DIP Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

FINAL ORDER PURSUANT TO 11 U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) AND 552 AND BANKRUPTCY RULES 4001 AND 6004 (I) AUTHORIZING DEBTORS (A) TO ENTER INTO AND PERFORM UNDER MURABAHA AGREEMENT, AND (B) TO OBTAIN CREDIT ON A SECURED SUPERPRIORITY BASIS, AND (II) GRANTING RELATED RELIEF

Upon the motion dated May [___], 2013 (as supplemented prior to the date hereof, the "**Motion**") of Arcapita Bank B.S.C.(c) ("**Arcapita**") and certain of its affiliated debtors, each as debtor and debtor-in-possession (expressly not including Falcon Gas Storage Company, Inc., collectively, the "**Debtors**"), in the above-captioned chapter 11 cases (not including the chapter 11 case of Falcon Gas Storage Company, Inc., the "**Cases**") pursuant to sections 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e), and 552 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "**Bankruptcy Code**"), Rules 2002, 4001 and 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), and Rule 4001-2 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of New York (the "**Local Rules**"), requesting, among other things:

(1) authorization for Arcapita Investment Holdings Limited (the "**Purchaser**") to obtain a senior secured Murabaha facility (the "**Facility**"), comprised of a senior secured superpriority debtor-in-possession US Dollar term Murabaha facility (the "**DIP Facility**") in an aggregate principal amount up to

$175,000,000 (the availability of which shall be subject to the terms and conditions set forth in the Finance Documents (as defined in the Facility Agreement (as defined below) and including any exhibits thereto)), to be provided by Goldman Sachs International or a permitted affiliate or designee thereof ("**GSI**"), acting as investment agent (in such capacity, the "**Investment Agent**") for institutions participating in the DIP Facility (together with GSI, the "**Participants**"), to be arranged by GSI acting as sole lead arranger, sole bookrunner, sole syndication agent, and investment agent (in such capacity, the "**Arranger**"), and for all of the other Debtors except for Falcon Gas Storage Company, Inc. ("**Falcon**") (collectively, the "**Debtor Guarantors**") to guaranty all of the Purchaser's obligations under such Facility;

(2) authorization for the Purchaser to enter into and perform under a senior secured Superpriority Debtor-in-Possession and Exit Facility Master Murabaha Agreement substantially in the form filed as Exhibit B to the Motion (as the same has been or may be hereafter amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with terms thereof or hereof, the "**Facility Agreement**"),[1] and the other Finance Documents and to perform such other and further acts as may be reasonably required or appropriate in connection with the Finance Documents;

(3) authorization for the Purchaser to enter into and perform under agreements with the Investment Agent for the purchase of the Commodities (as

[1] The Facility Agreement also provides for a senior secured US Dollar term Murabaha exit facility (the "**Exit Facility**") in an aggregate amount up to $350,000,000, subject to the terms and conditions of the Facility Agreement.

defined in the Facility Agreement) on the terms set forth in the Finance Documents, and for the Purchaser to sell and convey such Commodities to a third-party purchaser;

(4) authorization for the Purchaser to repay in full in cash the outstanding obligations under the Existing DIP Facility (as defined below) as provided herein and in the Facility Agreement, subject to the terms and conditions of this final order (the "**Final Order**") and the Finance Documents, and the extinguishing of any and all liens and obligations (except, in each case contingent indemnification obligations as provided in Paragraph 11(d) and (e) hereof) arising under the Existing DIP Facility (defined below);

(5) the grant of superpriority administrative expense claims to the Investment Agent pursuant to section 364(c)(1) of the Bankruptcy Code over any and all administrative expenses of any kind or nature, subject only to the Carve Out (as defined below), the Prior SCB Claims (as defined below) and as set forth herein and in the Finance Documents;

(6) the grant of valid, enforceable, continuing, non-avoidable and fully perfected first priority liens on and security interests in, pursuant to section 364(c)(2), all of the property, assets, and other interests in property and assets of Arcapita, the Purchaser, and Arcapita LT Holdings Limited ("**ALTHL**") not otherwise subject to a valid, enforceable, continuing, non-avoidable and fully perfected lien, whether such property is presently owned or after-acquired, and all other "property of the estate" (as such term is defined in the Bankruptcy Code) of the Purchaser, Arcapita and ALTHL, of any kind or nature whatsoever, real or

personal, tangible, intangible or mixed, now existing or hereafter acquired or created, whether existing prior to or arising after the Petition Date (as defined in the Facility Agreement), excluding actions for preferences, fraudulent conveyances, and other avoidance power claims under sections 544, 545, 547, 548, 550 and 553 (but not including any recoveries under section 549 of the Bankruptcy Code) of the Bankruptcy Code (the "**Avoidance Actions**") and the proceeds thereof, subject only to the Carve Out on the terms and conditions set forth herein and in the Finance Documents;

(7) the grant of valid, enforceable, continuing, non-avoidable and fully perfected junior liens on and security interests in, pursuant to section 364(c)(3), all of the property, assets, and other interests in property and assets of the Debtors (except for Falcon) that are subject to valid, enforceable, continuing, perfected, and non-avoidable liens in existence on the Petition Date (or that are perfected after the Petition Date pursuant to 546(b)), whether such property is presently owned or after-acquired, and all other "property of the estate" (within the meaning of the Bankruptcy Code) of such Debtors, of any kind or nature whatsoever, real or personal, tangible, intangible or mixed, now existing or hereafter acquired or created, whether existing prior to or arising after the Petition Date, excluding Avoidance Actions and the proceeds thereof, subject only to the Carve Out on the terms and conditions set forth herein and in the Finance Documents; and

(8) the waiver of the Debtors' and their estates' rights to surcharge the Collateral (as defined below) pursuant to section 506(c) of the Bankruptcy Code;

and due and appropriate notice of the Motion, the final relief requested therein having been served by the Debtors on the Investment Agent (for itself and the Participants); Standard Chartered Bank ("**SCB**"), as agent under the prepetition secured Murabaha facilities dated May 30, 2011, and December 22, 2011 (the "**SCB Facilities**"); 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.) (the "**U.S. Trustee**"); 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 official committee of unsecured creditors in the Cases (the "**Committee**"); the Joint Provisional Liquidators (as defined in the Facility Agreement), Sidley Austin LLP, Woolgate Exchange, 25 Basinghall Street London, EC2V 5HA (Attn: Patrick Corr and Benjamin Klinger); CF ARC LLC, the investment agent under the Existing DIP Facility (defined below); all parties listed on the Master Service List established in the Cases; and all other parties requesting notice pursuant to Bankruptcy Rule 2002 (collectively, the "**Notice Parties**"); and notice of the Final Hearing, having been served by the Debtors on the Notice Parties and upon the record made by counsel at the Final Hearing; based on the Debtors' representations to the Court and the record in these Cases; and the Court having considered any objections to the relief sought herein; and after due deliberation and consideration and sufficient cause appearing therefor,

IT IS FOUND, DETERMINED, ORDERED AND ADJUDGED, that:

1. *Motion*. The Motion is hereby granted in accordance with the terms of this Final Order. Any objections to the Motion with respect to the entry of this Final Order that have not been withdrawn, waived, or settled are hereby denied and overruled, and any reservations of rights shall not affect or modify the terms of this Final Order.

2. *Jurisdiction*. This Court has core jurisdiction over the Cases, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

3. *Notice*. The Final Hearing is being held in accordance with Bankruptcy Rule 4001. Notice of the Motion, the final relief requested therein and the Final Hearing has been provided by the Debtors, whether by facsimile, electronic mail, overnight courier or hand delivery to certain parties in interest, including the Notice Parties. Under the circumstances, such notice of the Motion, the relief requested therein and the Final Hearing constitutes appropriate, due and sufficient notice thereof and complies with Bankruptcy Rule 4001(b), (c) and (d) and the Local Rules, and no further notice of the relief sought at the Final Hearing and the relief granted herein is necessary or required.

4. *Effectiveness.* This Final Order shall constitute findings of fact and conclusions of law pursuant to the Bankruptcy Rule 7052 and shall take effect and be fully enforceable immediately upon entry of this Final Order. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062, and 9024, or any other Bankruptcy Rule or Rule 62(a) of the Federal Rules of Civil Procedure, this Final Order shall be immediately effective and enforceable upon its entry, and there shall be no stay of execution or effectiveness of this Final Order as a result of the application of any of the foregoing Bankruptcy Rules or Federal Rules of Civil Procedure.

5. *Findings Regarding the Existing DIP Facility.*

(a) On December 18, 2012, the Court entered the Final Order Pursuant to 11 U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), and 364(e) and Bankruptcy Rules 4001 and 6004 (I) Authorizing Debtors (A) to Enter into and Perform under Murabaha Agreement, and (B) to Obtain Credit on a Secured Superpriority Basis, and (II) Granting Related Relief (Docket No. 727) (the "**Existing Final DIP Order**"). Pursuant to the Existing Final DIP Order, the Purchaser was authorized to obtain a senior secured superpriority debtor-in-possession multiple-draw term Murabaha facility, in an aggregate principal amount up to $175,000,000 under that certain Superpriority Debtor-in-Possession Master Murabaha Agreement, dated as of December 14, 2012 (as such may have been amended, restated, supplemented or otherwise modified in accordance with its terms, the "**Existing DIP Agreement**," and together with the other Finance Documents (as defined in the Existing DIP Agreement), in each case as such may have been amended, restated, supplemented or otherwise modified in accordance with their terms, collectively with the Existing DIP Agreement, the "**Existing DIP Finance Documents**," and the facility contemplated therein, the "**Existing DIP Facility**"), between Arcapita Investment Holdings Limited, as Purchaser, and CF ARC LLC, as investment agent and security agent for the Participants (as defined in the Existing DIP Agreement) (in such capacity, the "**Existing DIP Agent**," and together with the Participants (as defined in the Existing DIP Agreement), the "**Existing Finance Parties**"). All Obligations (as defined in the Existing DIP Agreement) incurred by or for the benefit or account of, and all guarantees issued by, the respective Debtors pursuant to the Existing DIP Finance Documents, the Existing Final DIP Order (or prior to the entry thereof, the Interim Order

Pursuant to 11 U.S.C. §§105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), and 364(e) and Bankruptcy Rules 4001 and 6004 (I) Authorizing Debtors (A) to Enter into and Perform under Murabaha Agreement, and (B) to Obtain Credit on a Secured Superpriority Basis, (II) Scheduling Final Hearing Pursuant to Bankruptcy Rules 4001(b) and (c) and (III) Granting Related Relief (Docket No. 698) approving the Existing DIP Facility, the "**Existing Interim DIP Order**")) and all other obligations and liabilities of the Debtors arising under the Existing DIP Finance Documents, the Existing Interim DIP Order and the Existing Final DIP Order, shall hereinafter be collectively referred to as the "**Existing DIP Obligations**").

6. *Findings Regarding the Commodities Transactions.*

(a) The purchases and sales of the Commodities through Purchase Contracts (as defined in the Facility Agreement) (i) give rise to extensions of credit by the Secured Parties (as defined below) in the form of DIP Obligations (as defined below) comprised of the Deferred Sale Price (as defined in the Faculty Agreement), (ii) are essential to the Facility Agreement and the DIP Facility, and (iii) thus provide a basis for the Debtors to access liquidity required to operate their businesses and preserve and enhance their enterprise value for the benefit of their stakeholders, and are necessary for the Debtors' overall restructuring.

(b) The purchases and sales of the Commodities shall be deemed to have been undertaken by the Investment Agent and the Participants and their affiliates in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and in express reliance upon the protections offered by section 363(m) of the Bankruptcy Code, and the Investment Agent and the Participants shall be entitled to the full protection of section

363(m) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise, unless the authorization of such sale or purchase is stayed pending appeal.

7. *Findings Regarding the DIP Facility* .

(a) Good cause has been shown for approval of the DIP Facility and entry of this Final Order.

(b) In light of the imminent June 14, 2013 maturity date on the Purchaser's Existing DIP Obligations under the Existing DIP Facility and the Debtors' work to exit chapter 11 as soon as possible in accordance with their proposed Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code (Docket No. 1038) (as amended, modified or supplemented in accordance with the DIP Facility, the "**Proposed Plan**"), the Debtors have a need to obtain the credit available under the DIP Facility in order to, among other things, repay the Existing DIP Facility; to permit the orderly continuation of the operation of their businesses; to facilitate the emergence from chapter 11; to maintain business relationships with vendors, suppliers, and customers; to make payroll; to make capital expenditures; to satisfy other general corporate, working capital and operational needs; to fund administrative costs of the Cases; and to pay such other amounts in accordance with the Finance Documents. The Debtors' access to sufficient working capital and liquidity by obtaining new credit under the Facility is vital to the preservation and maintenance of the going concern values of the Debtors during the Cases and necessary to avoid harm to the Debtors' estates. The Debtors' ability to convert the DIP Facility into the Exit Facility upon satisfaction of certain conditions set forth in the Facility Agreement and Finance

Documents is critical to their ability to consummate a successful reorganization that will preserve and maintain the Debtors' going concern values in accordance with the Proposed Plan.

(c) The Debtors have been and continue to be unable to obtain financing on more favorable terms from sources other than the Investment Agent and the Participants under the Finance Documents and this Final Order. The Debtors are unable to obtain adequate unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense. The Debtors are also unable to obtain secured financing on better terms without granting to GSI, as Security Agent under the Facility (in such capacity, the "Security Agent") for the benefit of the Finance Parties (as defined in the Facility Agreement) (collectively with the Security Agent and Investment Agent, the "**Secured Parties**"), the rights, remedies, privileges, benefits and protections provided herein and in the Finance Documents allowable under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code, including, without limitation, DIP Liens (as defined below) and the Superpriority Claims (as defined below) (collectively, the "**DIP Protections**").

(d) The Investment Agent and the Participants have indicated a willingness to provide postpetition secured financing via the DIP Facility to the Purchaser in accordance with the Facility Agreement, Finance Documents and this Final Order. The Finance Documents substantially conform to the terms and conditions of the Commitment Documents approved by the Court on May 17, 2013 [Dkt. No. 1113], except that the maximum available amount of the DIP Facility is increased from up to $150 million to up to $175 million.

(e) The terms and conditions of the DIP Facility pursuant to the Finance Documents and this Final Order, and the fees, costs, expenses and other charges paid or to be paid thereunder, are fair, reasonable, and the best available under the circumstances, reflect the Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and constitute "reasonably equivalent value" and "fair consideration" within the meaning of such terms under section 548 of the Bankruptcy Code and under applicable non-bankruptcy law.

(f) The DIP Facility and Finance Documents were negotiated in good faith and at arm's length among the Debtors and the Investment Agent, among others, with the assistance and counsel of their respective advisors, and all of the Debtor's obligations arising under, in respect of or in connection with the Facility Agreement or any of the other Finance Documents (collectively, the "**DIP Obligations**"), as well as the rights granted in this Final Order, shall be deemed to have been extended by the Investment Agent, the Participants and their affiliates for valid business purposes and uses and in good faith, as that term is used in section 364(e) of the Bankruptcy Code, and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, the Secured Parties, along with the DIP Protections, shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that this Final Order or any provision hereof is vacated, reversed, amended or modified, on appeal or otherwise.

(g) The Debtors have requested entry of this Final Order pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). The relief requested in the Motion and the authorization granted herein to enter into the Finance Documents and to purchase and sell Commodities up to an aggregate purchase price of $175,000,000 in connection with the

DIP Facility is necessary to avoid immediate and irreparable harm to the Debtors, their estates and their ability to successfully reorganize. Consummation of the DIP Facility, along with repayment of the Existing DIP Facilities, in accordance with this Final Order and the Finance Documents is therefore in the best interest of the Debtors' estates, consistent with their fiduciary duties, as its consummation will, among other things, allow the Debtors to facilitate their chapter 11 goals and maximize the value of their estates.

8. *Authorization of the Commodities Transactions*.

(a) Pursuant to section 363(b)(1) of the Bankruptcy Code, the Purchaser is hereby authorized to (i) enter into and perform its obligations under the Purchase Contracts (as defined in the Facility Agreement), including the obligation to purchase Commodities from the Investment Agent at the Cost Price plus Profit Amount (as such terms are defined in the Facility Agreement) and such other amounts due and payable under the Finance Documents, and (ii) sell such Commodities as set forth in the Facility Agreement. The transactions described in this subparagraph (a) shall be referred to collectively as the "**Commodities Transactions**."

(b) To the extent provided in the Facility Agreement, the Purchaser shall indemnify the Investment Agent for any actions, claims, proceedings, liabilities, costs, and expenses associated with, or arising in connection with, the Commodities Transactions or the other transactions contemplated under the Purchase Contracts, other than any actions, claims, proceedings, liabilities, costs, and expenses arising from the ownership of the Commodities by any of the Indemnified Parties (as defined in the Facility Agreement).

9. *Authorization to Incur DIP Obligations.*

(a) To enable Debtors to continue to operate their business, and subject to the terms and conditions of this Final Order and the Finance Documents, the Purchaser is hereby authorized to (i) incur obligations under, or as otherwise provided in, the DIP Facility in an aggregate outstanding principal amount not to exceed $175,000,000; and (ii) repay all of the Existing DIP Obligations under the Existing DIP Facility in accordance with the provisions hereof.

10. *Authorization of the Finance Documents*.

(a) The Debtors are hereby authorized to execute, issue, deliver, and enter into the Finance Documents and the Finance Documents are hereby approved. The Purchaser is hereby authorized to enter into the Facility Agreement, and the Debtor Guarantors are hereby authorized to unconditionally guaranty (on a joint and several basis and except that the guarantees of AEID II Holdings Limited ("**AEID II**"), RailInvest Holdings Limited ("**RailInvest**"), and WindTurbine Holdings Limited ("**WTHL**") shall be expressly subordinated to the Prior SCB Claims) the Purchaser's obligations under the Finance Documents up to an aggregate principal or face amount of $175,000,000 (plus profits, fees, costs and other expenses and amounts provided for in the Finance Documents), in accordance with the terms of this Final Order and the Finance Documents, the proceeds of which shall be used for all purposes permitted under the Finance Documents, including, without limitation, to allow repayment of all obligations outstanding under the Existing DIP Facility; to provide working capital for the Purchaser and the Debtor Guarantors; to fund general corporate purposes; and to pay profits, fees and expenses, in each case in accordance with this Final Order, the Finance Documents, the

SCB Order and the DIP Budget (as defined in the Facility Agreement) (subject to the variances set forth in Clause 13 of the Facility Agreement).

(b) In furtherance of the foregoing and without further approval of this Court, each Debtor is authorized and directed to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements), and, without further application to the Court, to pay all fees, expenses, and profits under the Finance Documents (including, without limitation, payment of [Profit Amount C] (as defined in the Facility Agreement)), that may be reasonably required or necessary for the Debtors' performance of their obligations under the DIP Facility, including, without limitation:

(i) the execution, delivery and performance of the Finance Documents;

(ii) the execution, delivery and performance of one or more amendments, waivers, consents, supplements or other modifications to and under the Finance Documents including, among other things, to at any time, add additional institutions as Participants or reallocate the commitments under the Finance Documents among Participants, in each case in such form as Arcapita, the Purchaser, the Investment Agent, and the Participants (to the extent required under the Facility Agreement) may reasonably agree, it being understood that no further notice and hearing or approval of the Court shall be required for amendments, waivers, consents, supplements or other modifications to and under the Finance Documents with respect to the DIP Facility or the DIP Obligations that do not (A) shorten the maturity of the extensions of credit thereunder, (B) increase the

commitments or the rate of profit or fees payable thereunder, (C) materially impair SCB's rights under the SCB Order, or (D) are otherwise not materially burdensome to the Debtors' estates; provided that, notwithstanding the foregoing, the Debtors shall provide three (3) days' notice to and consult with counsel to the Committee, SCB, and the Joint Provisional Liquidators prior to entering into any amendment or other modification to the Finance Documents or the DIP Obligations;

(iii) the non-refundable payment to the Investment Agent, the Security Agent, the Arranger and the Participants, as the case may be, of the fees and profits referred to in the Finance Documents and the reasonable fees, costs and expenses of professionals retained by the Investment Agent and the Security Agent (the "**Participant Professionals**"), as and to the extent provided for in the Finance Documents, without the necessity of filing retention applications, fee applications or fee statements; and

(iv) the performance of all other acts required under or in connection with the Finance Documents.

(c) Upon execution and delivery of the Finance Documents, the Finance Documents shall constitute valid and binding obligations of the Debtors (except for Falcon), enforceable against each such Debtor party thereto in accordance with their terms and this Final Order. No obligation, payment, transfer or grant of security under the Finance Documents or this Final Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law (including without limitation, under section 502(d) of the Bankruptcy Code), or subject to any defense, reduction, setoff, recoupment or counterclaim.

(d) The Debtors shall promptly (but within three Business Days) provide to Committee counsel a copy of any duly completed Transaction Request (as defined in the Facility Agreement) made to the Investment Agent pursuant to section 5.1 of the Facility Agreement. The Debtors shall further promptly (but within three Business Days) provide to Committee counsel a copy of the acceptance of an Offer Letter (as defined in the Facility Agreement) made pursuant to section 5.4 of the Facility Agreement.

11. *Payoff of Existing DIP Obligations.* Subject to the occurrence of the Investment Agent delivering notice to the Participants that it has received all of the documents and other evidence listed in Schedule 1 Part 1 (Initial Conditions Precedent documents) of the Facility Agreement in form and substance satisfactory to it in accordance with Clause 4.1 of the Facility Agreement (the date of such occurrence, the "**Effective Date**"), the Purchaser shall use the proceeds of the DIP Facility, or shall direct that the proceeds of the DIP Facility be used, to repay in full in cash the Existing DIP Obligations in the manner required by the Existing Facility Agreement and Finance Documents (as defined in the Existing Facility Agreement), respectively, and in accordance with the following provisions:

(a) On the business day of the receipt by the Existing DIP Agent of written notice of entry of the Final Order, the Existing DIP Agent shall deliver to the Debtors and the Investment Agent a duly executed payoff letter (the "**DIP Facility Payoff Letter**") (i) setting forth its calculation of all amounts then due and payable in respect of the Existing DIP Obligations, including without limitation the unpaid or outstanding obligations and under the Purchase Contracts (as defined in the Existing DIP Agreement) and any other fees, costs and/or expenses due and payable pursuant to the terms of the Existing DIP Finance Documents (the "**Asserted Existing DIP Facility Payoff Amount**"),

(ii) agreeing to deliver to the Investment Agent all Collateral in their possession (and agreeing to take reasonable steps to have any Participant (as defined in the Existing DIP Agreement) deliver to the Investment Agent all Collateral in such Participant's (as defined in the Existing DIP Agreement) possession), together with all necessary endorsements, immediately upon payment of the Asserted Existing DIP Facility Payoff Amount, and (iii) providing customary further assurance provisions with respect to termination or release of liens and with respect to the taking of further actions, including, without limitation, providing reasonable cooperation and assistance (at the Debtors' expense) with respect to effectuating the assignment (to the extent assignable) of existing deposit account control agreements and securities control agreements as requested by the Investment Agent.

(b) In the event the Debtors dispute the accuracy or validity of the Asserted Existing DIP Facility Payoff Amount, then the Debtors shall deliver, or shall direct to be delivered, to the Existing DIP Agent, prior to the Effective Date and within one business day after the Debtors' receipt of the DIP Facility Payoff Letter, a written notice (the "**Existing DIP Facility Payoff Amount Dispute Notice**") specifying the portion of the Asserted Existing DIP Facility Payoff Amount that the Debtors dispute (such disputed portion, the "**Disputed Asserted Existing DIP Facility Payoff Amount**" and the undisputed portion, the "**Undisputed Asserted Existing DIP Facility Payoff Amount**"). Promptly upon the Debtors' and the Investment Agent's receipt of the Existing DIP Facility Payoff Letter and, if applicable, the Existing DIP Facility Payoff Amount Dispute Notice, and subject to the occurrence of the Effective Date, the Debtors shall use the proceeds of the DIP Facility, or shall direct that the proceeds of the DIP Facility be used, under the Facility Agreement to irrevocably repay the Existing DIP Agent, for its benefit

and the benefit of the Existing Finance Parties, the entire Asserted Existing DIP Facility Payoff Amount (including the Disputed Asserted Existing DIP Facility Payoff Amount) in full satisfaction of the Existing DIP Obligations; provided, that the Existing DIP Agent shall retain (and not distribute to the Existing Finance Parties) the Disputed Asserted Existing DIP Facility Payoff Amount pending final resolution of the dispute specified in the Existing DIP Facility Payoff Amount Dispute Notice either by mutual agreement of the parties or by order of the Court; provided, further, that such Disputed Asserted Existing DIP Facility Payoff Amount shall remain subject to this Final Order and the DIP Protections of the Secured Parties pending final resolution of the dispute specified in the Existing DIP Facility Payoff Amount Dispute Notice either by mutual agreement of the parties or by order of the Court.

(c) Immediately upon payment of the Asserted Existing DIP Facility Payoff Amount (the date on which such payment occurs, the "**Existing DIP Facility Payment Date**"), (i) all Superpriority Claims (as defined in the Existing Final DIP Order), all DIP Liens (as defined in the Existing Final DIP Order) including, without limitation, any other liens securing any or all of the Existing DIP Obligations shall be automatically terminated, discharged and released in their entirety without any further action of this Court or any other Person, (ii) the Existing Finance Parties shall deliver to the Investment Agent all Collateral in their possession, together with all necessary endorsements, in each case at the sole cost and expense of the Debtors; provided, that the DIP Liens on such Collateral shall remain valid, enforceable and effective with the priority specified in this Final Order and the other Finance Documents at all times, notwithstanding that such Collateral may not have been delivered to the Investment Agent, (iii) each deposit account

control agreement and each securities account control agreement entered into in connection with the Existing DIP Finance Documents shall be, at the sole discretion of the Investment Agent, either (x) assigned, to the extent such agreement can be assigned, to the Investment Agent on terms and conditions satisfactory to the Investment Agent or (y) automatically terminated without any further action of this Court or any other Person, and (iv) the Existing DIP Agent shall take all reasonable actions requested by any of the Investment Agent or the Debtors to effect or evidence the foregoing (including, without limitation, the execution and delivery of UCC-3 termination statements, mortgage releases and other instruments and documents evidencing the release of any and all liens securing any or all of the Existing DIP Obligations), in each case at the sole cost and expense of the Debtors.

(d) Immediately upon the occurrence of the Existing DIP Facility Payment Date, the Existing Final DIP Order shall have no further force and effect, except that the indemnity provisions and limitations on use of financing proceeds and collateral provided for in Paragraphs 9 and 18 of the Existing Final DIP Order shall remain in full force and effect and be binding upon the Debtors and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors), the Committee and any other party in interest in these Cases.

(e) Subsequent to the Existing DIP Facility Payment Date, (i) the Debtors shall promptly pay and/or reimburse, or shall direct the prompt payment and/or reimbursement of, the applicable Existing DIP Secured Parties for any and all fees, costs and expenses and losses and damages actually incurred (including, without limitation, any fees, costs, losses, damages and expenses contemplated by section [__] of the Existing DIP Agreement) thereafter to the extent the Existing DIP Agreement expressly and currently

entitles them to such payment, indemnity or reimbursement after termination of the Existing DIP Agreement (subject to all parties' reservation of rights on whether such fees, costs, losses, damages or expenses are entitled to payment, indemnity or reimbursement by the Debtors); and (ii) such amounts shall, until paid in full in cash, constitute superpriority administrative expense claims under section 503(b)(1) of the Bankruptcy Code (which shall be subject and junior in all respects to the Superpriority Claims, DIP Liens, Carve Out, SCB First Priority Superpriority Claims (as defined below) and other DIP Protections of the Secured Parties) but senior to all other administrative expense claims.

(f) Nothing in this paragraph 11 shall require the Secured Parties to extend any credit or provide any other financial accommodations that they are not otherwise required to extend or provide under the terms of the Facility Agreement and this Final Order.

12. *Conditions Precedent.* The Secured Parties shall have no obligation to enter into a Purchase Contract, purchase Commodities or provide any other extension of credit or financial accommodation in respect of the DIP Facility or otherwise unless and until all conditions precedent thereto under the Finance Documents and this Final Order have been satisfied in full or waived by the requisite Investment Agent and Participants in accordance with the Finance Documents and this Final Order.

13. *Indemnity*. The indemnity provisions of the Finance Documents are hereby approved to the extent provided therein.

14. *Superpriority Claims*.

(a) Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations, including without limitation any obligations arising from the Commodities

Transactions, shall constitute allowed administrative expenses against each of the Debtors (excluding Falcon) with priority over any and all administrative expenses, and all other claims against such Debtors, now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code, and over any and all administrative expenses or other claims arising under section 105, 326, 328, 330, 331, 365, 503(b), 506(c), 507(a), 507(b), 546, 726, 1113 or 1114 of the Bankruptcy Code, including, without limitation, any superpriority claims granted as adequate protection in favor of secured parties in the Cases, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed claims shall be payable from and have recourse to all pre- and post-petition property of the Debtors (excluding Falcon) and all proceeds thereof (the "**Superpriority Claims**"), subject only to the payment of the Carve Out to the extent specifically provided for herein. The Superpriority Claims shall for purposes of section 1129(a)(9)(A) of the Bankruptcy Code be considered administrative expenses allowed under section 503(b) of the Bankruptcy Code, shall be against each other Debtor (excluding Falcon) on a joint and several basis, and shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof, including, without limitation, all Avoidance Actions (and proceeds thereof). Other than as provided in the Facility Agreement and this Final Order with respect to the payment of the Carve Out, no costs or expenses of administration, including, without limitation, professional fees allowed and payable under sections 327, 328, 330, and 331 of the Bankruptcy Code, administrative expenses incurred in any chapter 7 case in respect of Debtors, or otherwise, that have been or may be incurred in

these Cases, or any successor Cases, and no priority claims are, or will be, senior to, prior to or on a parity with the DIP Liens and the Superpriority Claims or the DIP Obligations, or with any other obligations of the Debtors to the Secured Parties arising hereunder.

(b) Notwithstanding anything to the contrary contained in the Facility Agreement, Finance Documents, this Final Order, or the Motion, so long as the obligations under the SCB Facilities remain outstanding, (i) the DIP Obligations and the Superpriority Claims shall be junior to the SCB Superpriority Claims (as defined in the Settlement Term Sheet attached as Exhibit 1 to the SCB Order[2]) to the extent that the SCB Superpriority Claims relate to funds transferred by, or other disposition of, AEID II, RailInvest, or WTHL (such SCB Superpriority Claims, the "**SCB First Priority Superpriority Claims**"); (ii) the DIP Obligations and the Superpriority Claims against AEID II, RailInvest, and WTHL shall be subordinated to the existing guarantees in favor of SCB against AEID II, RailInvest; and WTHL; and (iii) SCB shall have a prior superpriority claim in all proceeds of the EuroLog IPO (as defined in the SCB Order) to the extent provided under the SCB Order (the claims in favor of SCB as described in (i) through (iii), and the Listco Pledge (as defined in the SCB Order) in connection with the EuroLog IPO, in each case to the extent allowed, referred to collectively as, the "**Prior SCB Claims**").

(c) For purposes hereof, the "**Carve Out**" shall mean (i) any unpaid fees required to be paid to the Clerk of the United States Bankruptcy Court for the Southern District of New York and to the U.S. Trustee under section 1930(a) of title 28 of the United States Code and interest thereon, (ii) the reasonable fees and expenses approved

[2] The "**SCB Order**" means the Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing and Approving the Settlement with Standard Chartered Bank (Docket No. 587), entered October 19, 2012.

by the Bankruptcy Court incurred by a trustee under sections 726(b) or 1104 of the Bankruptcy Code in an aggregate amount not to exceed $25,000, (iii) the reasonable and documented expenses of members of the Committee (excluding fees and expenses of professional persons employed by the Committee and/or such Committee member individually) in an amount not to exceed $200,000; (iv) 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 by the Debtors or the Committee (the "**Professional Persons**") and the reasonable fees and expenses (including legal fees) of the Joint Provisional Liquidators, in each case, that were accrued or incurred, as applicable through the date upon which the Purchaser and the Committee receives from the Investment Agent a written notice of the occurrence of an Event of Default (as defined in the Facility Agreement) and the Investment Agent's intention to invoke the Carve Out (the "**Carve Out Notice**"); and (v) to the extent allowed at any time, all fees and expenses of Professional Persons and the Joint Provisional Liquidators incurred after the date upon which the Purchaser receives the Carve Out Notice, in the aggregate amount not to exceed $15,000,000 (the "**Carve Out Cap**"), provided that (a) the Carve Out Cap shall not be reduced nor increased by the amount of any compensation or reimbursement of expenses incurred by or paid to any Professional Person or the Joint Provisional Liquidators prior to the Purchaser's receipt of the Carve Out Notice or by any fees, expenses, indemnities, or other amounts paid to the Investment Agent, Participants, or their respective attorneys or agents under the DIP Facility or otherwise and (b) to the extent that the Carve Out Cap is reduced by an amount as a result of payment of fees and expenses during the continuation of an Event of Default

and after delivery of the Carve Out Notice, and such Event of Default is subsequently cured or waived and the Carve Out Notice is rescinded in writing, such dollar limitation shall be increased by an amount equal to the amount by which it has been so reduced.

(d) Notwithstanding anything herein, without the prior written consent of the Investment Agent or the Security Agent, as applicable, the Carve Out shall not include, apply to, or be available for any fees or expenses incurred by any party (1) in connection with any challenge to the validity, perfection, priority, extent or enforceability of the DIP Obligations or other transactions under the DIP Facility, or the DIP Liens on any Collateral or security interests securing the DIP Obligations; (2) in connection with any investigation or assertion of any other claims, adversary proceedings, causes of action, or other litigation, including any action or obligation with respect to the Superpriority Claims or DIP Liens, against any Participant, the Investment Agent or any other holder of any DIP Obligations in such capacity; (3) to object to, contest, delay, prevent or interfere in any way with the exercise of rights or remedies by the Security Agent under the Finance Documents (except that the Debtors may dispute whether an Event of Default has occurred under paragraph 18(b) hereof and the Debtors shall be entitled to any notice provisions provided in this Final Order); or (4) during the continuation of an Event of Default and after delivery of the Carve Out Notice, in connection with any separate or additional act or series of acts which would constitute an Event of Default, provided that deviations from the DIP Budget for purposes of making payments to Professional Persons that would constitute an Event of Default but that are otherwise permitted under the Carve Out shall not be subject to this clause (4). Nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation of any

Professional Person. The Carve Out must be used in full and exhausted prior to the Debtors' use of the $1,000,000 carve out for professional fees provided for in the SCB Order.

15. *Adequate Protection*. Nothing contained in this Final Order modifies, alters, amends or supersedes the grant of adequate protection to SCB and the priority of SCB's claims against the Debtors pursuant to the SCB Order.

16. *DIP Liens*. As security for the DIP Obligations, effective and perfected upon the date of this Final Order and without the necessity of the execution, recordation or filings of mortgages, security agreements, control agreements, pledge agreements, financing statements or other similar documents, or the possession or control by the Security Agent of, or over, any Collateral, the following security interests and liens are hereby granted to the Security Agent for the benefit of the Investment Agent and the Finance Parties (all tangible and intangible property, whether real or personal, identified in clauses (a) and (b) below being collectively referred to as the "**Collateral**"); all such liens and security interests granted to the Security Agent for the benefit of the Finance Parties pursuant to this Final Order, the "**DIP Liens**", subject and subordinate only to the payment of the Carve Out and the Prior SCB Claims and, in the case of the collateral identified in clause (b) below, any claim secured by a valid, binding, continuing, enforceable, fully-perfected senior lien therein; *provided*, *however*, that the Collateral shall not include (i) the Avoidance Actions or the proceeds thereof or (ii) the assets of AEID II, RailInvest, or WTHL (except to the extent such assets constitute collateral under the SCB Facilities, in which case the Security Agent's liens shall be junior to liens granted to SCB); *provided further*, *however*, that the Collateral shall not include any property to the extent that the Investment Agent reasonably determines, and notifies the Purchaser in writing, that the costs of obtaining

liens or security interests with respect to such property are excessive in relation to the value of the security interest afforded thereby.

(a) *First Lien Unencumbered Property*. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest in and lien upon all property of Arcapita, the Purchaser, and ALTHL, whether existing on the Petition Date or thereafter arising, coming into existence or acquired, whether tangible or intangible, whether real or personal, that (1) is not subject to valid, binding, continuing, enforceable, and fully perfected and non-avoidable liens or security interests as of the Petition Date or (2) becomes unencumbered and is no longer subject to any lien or security interest, including, without limitation, the Purchaser's interests in the WCFs (as defined in the Facility Agreement) and the Purchaser's voting rights with respect thereto, ALTHL's interests in LT CayCos (as defined in the Facility Agreement) that are unencumbered or become unencumbered, the Purchaser's non-syndicated interests in the Syndication Companies (as defined in the Facility Agreement), cash, general intangibles, accounts, equipment, goods, inventory, fixtures, documents, instruments, chattel paper, letters of credit and letters of credit rights, investment property, commercial tort claims, money, deposit accounts, supporting obligations (each of foregoing terms as defined in the Uniform Commercial Code as in effect from time to time in the State of New York (the "**UCC**")), all books and records relating to the foregoing, and all other personal and real property, whether tangible or intangible, and all proceeds (as defined in the UCC) and products of each of the foregoing (the "**First Lien Collateral**").

(b) *Liens Junior to Certain Other Liens*. Pursuant to sections 364(c)(3) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected security interest in and junior lien upon all property of the Debtors (except for Falcon) that are subject to (i) any valid, binding, continuing, enforceable, fully-perfected and non-avoidable lien in existence on the Petition Date or (ii) any valid, binding and enforceable lien in existence on the Petition Date that is perfected subsequent to the Petition Date pursuant to section 546(b) of the Bankruptcy Code or otherwise comes into existence or is acquired after the Petition Date, whether tangible or intangible, whether real or personal, together with all proceeds and products thereof, including, in each case and for so long as the obligations under the SCB Facilities remain unpaid, the liens on the collateral securing the obligations under the SCB Facilities.

(c) For so long as any of the DIP Obligations remain outstanding, the Collateral shall be free and clear of all senior liens, claims and encumbrances, other than the DIP Liens granted to the Security Agent for the benefit of the Finance Parties and except for those liens, claims, and encumbrances expressly permitted under the Finance Documents or this Final Order. Any liens and claims granted as adequate protection to any secured party (other than those granted to SCB in connection with the SCB Facilities and the SCB Order) are junior and subordinate to the DIP Liens in the Collateral granted to the Security Agent, for the benefit of the Finance Parties pursuant to this Final Order.

17. *Proceeds of Collateral.* All proceeds of (a) the First Lien Collateral or (b) other Collateral solely to the extent that the obligations under the SCB Facilities or other senior debt are no longer outstanding, of any kind which are now or shall hereafter come into the possession or control of the Debtors (other than Falcon) to which any such Debtor is now or shall become

entitled under the Finance Documents, shall be promptly deposited into deposit accounts maintained by the Purchaser or Arcapita upon which the Security Agent shall have first priority DIP Liens pursuant to this Final Order, and such collections and proceeds shall remain subject to the DIP Liens and shall be treated in accordance with this Final Order and the Finance Documents. Subject to the provisions of this Final Order, upon the occurrence and continuation of an Event of Default under the Finance Documents, all financial institutions in which any deposit accounts, lockboxes, blocked accounts, or other accounts of any of the Debtors (except Falcon) holding the proceeds of any of the First Lien Collateral are located are hereby authorized and directed to comply with any request of the Security Agent to turn over to the Security Agent all funds therein without setoff, recoupment, or deduction of any kind.

18. *Protection of Financing Parties' Rights*. The automatic stay provisions of section 362 of the Bankruptcy Code are hereby vacated and modified to the extent necessary, without the need for any further order of the Court:

(a) To permit the Investment Agent and/or Security Agent to exercise, upon the occurrence and continuation of any Event of Default under the Finance Documents or the Termination Date (as defined in the Facility Agreement), all rights and remedies under the Finance Documents, and, to the extent provided for in the Finance Documents, to take any or all of the following actions without further order of or application to this Court: (i) cease to make any extensions of credit or advances to the Debtors and declare the Participants' commitments under the DIP Facility terminated; (ii) declare all DIP Obligations to be immediately due and payable without presentment, demand, protest or notice; (iii) set off and apply immediately any and all amounts in accounts maintained by Arcapita, the Purchaser, and ALTHL (or any other Debtor (except

Falcon) to the extent such accounts are subject to DIP Liens and solely to the extent that the obligations under the SCB Facilities or other senior debt are no longer outstanding) with the Investment Agent, Security Agent or any Participant against the DIP Obligations to the extent permitted under the Finance Documents or applicable law; (iv) exercise all rights and remedies against the Collateral to the extent provided for in any Finance Document; and (v) take any other actions or exercise any other rights or remedies permitted under this Final Order, the Finance Documents, or applicable law to realize upon the Collateral and/or effect the repayment and satisfaction of the DIP Obligations, subject to (A) SCB's rights under paragraph [18(b)] of this Final Order and (B) Clause 16.24(e) of the Facility Agreement, including that the Investment Agent and/or the Security Agent provide seven (7) days written notice (by facsimile, telecopy, electronic mail or otherwise) to the Debtors, counsel to the Debtors, the U.S. Trustee, the Joint Provisional Liquidators, counsel to the Committee, and counsel to SCB, prior to exercising any enforcement rights or remedies under (iii) through (v) above (but not any of the rights described in clauses (i) and (ii) above).

(b) In any hearing regarding any exercise of rights or remedies by the Investment Agent and/or the Security Agent, the only issue that may be raised by the Debtors or any party in interest shall be whether, in fact, an Event of Default under the Finance Documents has occurred and is continuing, and neither the Debtors nor any party in interest shall be entitled to seek relief, including, without limitation, under section 105 of the Bankruptcy Code, to the extent such relief would in any way impair or restrict the rights and remedies of any Secured Party set forth in this Final Order or the Finance Documents. Notwithstanding the foregoing, so long as the obligations under the SCB

Facilities remain outstanding, SCB shall be permitted to assert that any exercise of rights or remedies by the Investment Agent and/or the Security Agent against (i) collateral securing the obligations under the SCB Facilities and/or (ii) AEID II, RailInvest, or WTHL is not permitted under the Final Order or the SCB Order. In no event shall the Investment Agent, the Security Agent or the Participants be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to any of the Collateral.

(c) Until the payment in full of the DIP Obligations, any party other than the Security Agent that has or obtains a lien or security interest in the Collateral shall not exercise any rights or remedies with respect to the First Lien Collateral to the extent allowed by applicable law.

(d) Unless the Investment Agent and the requisite other Secured Parties under the Finance Documents shall have provided their prior written consent, or all DIP Obligations have been indefeasibly paid in full in cash in accordance with the provisions of the applicable Finance Documents and all commitments thereunder have been terminated ("**Paid in Full**" or "**Payment in Full**"), there shall not be entered in any Case or in any successor proceedings, any order which authorizes the obtaining of credit or the incurring of any other obligation that is secured by a security, mortgage, or collateral interest or other lien on all or any portion of the Collateral and/or that is entitled to administrative priority status, in each case which is superior to or pari passu with the DIP Liens, Superpriority Claims and other DIP Protections granted pursuant to this Final Order to the Secured Parties.

19. *Proceeds of Subsequent Financing.* Without limiting the provisions and protections of Paragraph 27 below, if at any time prior to the Payment in Full of all DIP

Obligations (including subsequent to the confirmation of the Proposed Plan or any other chapter 11 plan or plans with respect to any of the Debtors), the Debtors' estates, any trustee, any examiner with enlarged powers or any responsible officer subsequently appointed, shall obtain credit or incur obligations pursuant to sections 364(b), 364(c), 364(d) or any other provision of the Bankruptcy Code in violation of the Financing Documents, then all of the cash proceeds derived from such credit or obligation related to the First Lien Collateral shall be immediately turned over to the Investment Agent for application to, and until Payment in Full of, the DIP Obligations pursuant to the applicable Finance Documents. Without limiting the foregoing, no cash proceeds related to the First Lien Collateral derived from such credit or obligation may be applied to any administrative claims prior to and until Payment in Full of the DIP Obligations.

20. *Disposition of DIP Collateral.* The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the First Lien Collateral without the prior written consent of the Investment Agent and the requisite Secured Parties under the Finance Documents (and no such consent shall be implied from any other action, inaction or acquiescence by any Secured Party or any order of this Court), except as otherwise permitted in the Finance Documents and this Final Order . Except to the extent otherwise expressly provided in the Finance Documents, all proceeds from the sale, transfer, lease, encumbrance or other disposition of any First Lien Collateral shall be promptly remitted to the Investment Agent for application to, and until Payment in Full of, the DIP Obligations pursuant to and in accordance with the applicable Finance Documents. For the avoidance of doubt, subject to the obligations in respect of the Carve Out set forth in Paragraph 14(c) hereof, all proceeds from the sale, transfer, lease, encumbrance or other disposition of any First Lien Collateral following the occurrence of any Event of Default shall be applied first to Payment in Full of the DIP Obligations, and only

after Payment in Full of the DIP Obligations may any such proceeds be applied to any other administrative claims.

21. *Limitation on Charging Expenses Against Collateral*. As a further condition of the DIP Facility and any obligation of the Investment Agent or Participants to enter into Commodities Transactions pursuant to the Finance Documents (and their consent to the payment of the Carve Out to the extent provided herein), except to the extent of the Carve Out, no costs or expenses of administration of the Cases or any successor proceedings, including a chapter 7 liquidation in bankruptcy and the cost of preservation or disposition of the Collateral, shall be charged against or recovered from or against any or all of Secured Parties or the Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law, without the prior written consent of the Investment Agent, and no such consent shall be implied from any other action, inaction, or acquiescence by the Investment Agent, the Security Agent or the Participants. Subject to entry of a Final Order which provides for a waiver of such claims, the Debtors (for themselves and their estates) hereby irrevocably waive and relinquish any rights they may have under section 506(c) of the Bankruptcy Code with respect to the Collateral.

22. *Perfection of DIP Liens*.

(a) The Investment Agent and the Security Agent, on behalf of the Finance Parties, are each hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, notices of lien or similar instruments in any jurisdiction, or take possession of or control over, or take any other action in order to validate and perfect the liens and security interests granted hereunder. Whether or not the Investment Agent or the Security Agent, on behalf of the Finance Parties shall, in its sole discretion, choose to file such financing statements, trademark

filings, copyright filings, mortgages, notices of lien or similar instruments, or take possession of or control over, or otherwise confirm perfection of the liens and security interests granted hereunder, such liens and security interests shall be deemed valid, perfected, continuing, enforceable, non-avoidable and not subject to challenge, dispute or subordination, at the time and on the date of entry of the Final Order. Without limitation of the foregoing, the Security Agent on behalf of the Finance Parties shall have a valid, perfected, continuing, enforceable, non-avoidable, perfected lien upon and security interest of the same relative priority or priorities set forth in paragraphs 16(a) and 16(b) in all deposit accounts in which any cash constituting the Collateral is deposited and all securities accounts in which any financial assets constituting the Collateral is credited, in each case without any need for entering into any control agreement.

(b) A certified copy of this Final Order may, in the discretion of the Investment Agent or the Security Agent, be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Final Order for filing and recording. For the avoidance of doubt, the automatic stay of section 362(a) of the Bankruptcy Code shall be modified to the extent necessary to permit the Investment Agent, the Security Agent, and the Finance Parties to take all actions, as applicable, referenced in this paragraph 17.

23. *Limitation on Use of Financing Proceeds and Collateral*. Notwithstanding anything herein or in any other order by this Court to the contrary, no portion of the proceeds under the Facility or of Collateral, or any portion of the Carve Out, may be used by any of the Debtors, the Committee or any trustee or other estate representative appointed in any Case or

successor proceeding, or any other person (or to pay any professional fees and disbursements in connection therewith): (i) to request authorization to obtain postpetition credit or other financial accommodations, in each case, by the Obligors or other members of the Group (as defined in the Facility Agreement) pursuant to Bankruptcy Code section 364(c) or (d), or otherwise, other than from the Secured Parties unless expressly permitted in the Finance Documents; (ii) to investigate, assert, join, commence, support or prosecute any action for any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief against, or adverse to the interests of, in such capacity, any or all of the Investment Agent, Participants, other Secured Parties or other holder of DIP Obligations under the Finance Documents and their respective officers, directors, employees, agents, attorneys, affiliates, assigns or successors, with respect to any transaction, occurrence, omission, action or other matter (including formal discovery proceedings in anticipation of or in connection therewith), including, without limitation (A) any Avoidance Actions or other actions arising under chapter 5 of the Bankruptcy Code, (B) any so-called "lender liability" claims and causes of action, (C) any action with respect to the amount, validity, enforceability, perfection, priority, or characterization of the DIP Liens (or the value of any of the Collateral), Superpriority Claims or any other DIP Protections, (D) any action seeking to invalidate, set aside, avoid or subordinate, in whole or in part, the DIP Liens, the Superpriority Claims or any other DIP Protections; (E) except to contest the occurrence or continuation of any Event of Default (as defined in the Facility Agreement) as permitted in Paragraph 18(b) of this Final Order, any action seeking, or having the effect of, preventing, hindering or otherwise delaying any or all of the Secured Parties' assertion, enforcement or realization on the Collateral in accordance with the Finance Documents or this Final Order, and (F) any action seeking to modify any of the

rights, remedies, priorities, privileges, protections and benefits granted to any or all of the Secured Parties hereunder or under the Finance Documents; (iii) to make any payment on account of any claims or indebtedness arising or incurred prior to the Petition Date except as permitted under the Finance Documents and SCB Order, and then only in accordance with the DIP Budget (subject to applicable variances and carry-forwards under the Facility Agreement); (iv) for any act which has the effect of materially or adversely modifying or compromising the rights and remedies of the Investment Agent, the Security Agent, or any Participant as set forth herein and in the other Finance Documents, or which results in the occurrence of an Event of Default (except as permitted under the Carve Out); (v) directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended; (vi) be paid to (A) any Embargoed Person (as defined in the Facility Agreement), (B) any agency of the government of any Sanctioned Country (as defined in the Facility Agreement), (C) any organization controlled by a Sanctioned Country or (D) any person residing in a Sanctioned Country, to the extent subject to a sanctions program administered by U.S. Department of the Treasury's Office of Foreign Assets Control; or (vii) in any manner that violates Regulations T, U, or X of the Board of Governors of the Federal Reserve System of the United States or any other regulation thereof or to violate the Securities Exchange Act of 1934. Except as provided in the Finance Documents or in this Final Order, no portion of the proceeds of any Collateral, including cash collateral, shall be used for any purpose other than as provided for in the DIP Budget (subject to the variances set forth in Clause 13 of the Facility Agreement and except as permitted under the Carve Out).

24. *Order Governs*. In the event of any inconsistency between the provisions, terms and conditions of this Final Order and the Finance Documents, the provisions of this Final Order shall govern and control.

25. *Binding Effect; Successors and Assigns*. Except as expressly provided herein, the Finance Documents and the provisions of this Final Order, including all findings herein, shall be binding upon all parties in interest in the Cases, including, without limitation, the Investment Agent, the Security Agent, the Participants, the Committee, the Existing DIP Agent and the Debtors and their respective successors and assigns (including any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of any of the Debtors, an examiner appointed pursuant to section 1104 of the Bankruptcy Code or any other fiduciary or responsible person appointed as a legal representative under any plan of reorganization or of any of the Debtors or with respect to the property of the Debtors (including as they may be reorganized under any plan of reorganization), any entity formed under any plan of reorganization of the Debtors or the estate of any of the Debtors), whether in any of the Cases, in any subsequent proceeding, or upon dismissal of any such Case or subsequent proceeding, and shall inure to the benefit of the Financing Parties and the Debtors and their respective successors and assigns; *provided, however,* that the Secured Parties shall have no obligation to extend any financing to any chapter 7 trustee or other responsible person appointed for the estates of the Debtors in any Case or subsequent proceeding. In determining to enter into any Commodities transaction, make any extension of credit (whether under the Facility Agreement, any other Finance Documents or otherwise) or in exercising any rights or remedies as and when permitted pursuant to this Final Order or the Finance Documents, the Secured Parties shall not (i) be deemed to be in control of the operations of the Debtors, (ii) owe any fiduciary duty to the Debtors, their respective creditors, shareholders

or estates or (iii) be deemed to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors, so long as the Secured Parties' actions do not constitute, within the meaning of 42 U.S.C. § 9601(20)(F), actual participation in the management or operational affairs of a vessel or facility owned or operated by a Debtor, or cause the status of responsible person or managing agent to exist under applicable law (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute), or otherwise cause liability to arise to the federal or any state government.

26. *After Acquired Property.* Except as otherwise provided in this Final Order or the SCB Order, pursuant to section 552(a) of the Bankruptcy Code, all property acquired by the Debtors on or after the Petition Date is not, and shall not be, subject to any lien of any Person resulting from any security agreement entered into by the Debtors prior to the Petition Date, except to the extent that (a) such property constitutes proceeds of property of the Debtors that is subject to a valid, enforceable, continuing, fully perfected, and non-avoidable lien as of the Petition Date which is not subject to subordination under the Bankruptcy Code or other provisions or principles of applicable law or (b) such property is finally determined by a court of competent jurisdiction to be trust property of or otherwise owned by SCB; provided that all parties' rights are reserved with respect to whether any property is trust property of or otherwise owned by SCB.

27. *No Non-Consensual Modification or Extension of Final Order.* Unless all DIP Obligations shall have been Paid in Full, the Debtors shall not seek, and it shall constitute an Event of Default under the Facility Agreement (resulting, among other things, in the termination of the Debtors' right to incur obligations under the DIP Facility), if there is entered (i) an order

amending, supplementing, extending or otherwise modifying this Final Order or (ii) an order converting or dismissing any of the Cases, in each case, without the prior written consent of the Investment Agent, and no such consent shall be inferred by any other action, inaction or acquiescence.

28. *Dismissal.* If any order dismissing any of the Cases under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code), to the fullest extent permitted by law, that (i) this Final Order and the DIP Protections shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until all DIP Obligations have been Paid in Full (and that all DIP Protections shall, notwithstanding such dismissal, remain binding on all parties in interest), and (ii) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing this Final Order and such DIP Protections and DIP Obligations.

29. *Modification of Final Order.* Based on the findings set forth in this Final Order and in accordance with section 364(e) of the Bankruptcy Code, which is applicable to the DIP Facility contemplated by this Final Order and the Finance Documents, in the event any or all of the provisions of this Final Order are hereafter reversed, modified, vacated or stayed by a subsequent order of this Court or any other court, the Secured Parties shall be entitled to the protections provided in section 364(e) of the Bankruptcy Code, and no such reversal, modification, vacatur or stay shall affect (i) the validity, priority or enforceability of any DIP Protections or DIP Obligations granted or incurred prior to the actual receipt of written notice by the Investment Agent of the effective date of such reversal, modification, vacatur or stay or (ii) the validity or enforceability of any DIP Lien, DIP Superpriority Claim or any other DIP Protection or priority authorized or created hereby or pursuant to the Finance Documents and this

Final Order with respect to any DIP Obligations. Notwithstanding any such reversal, modification, vacatur or stay, any use of Collateral or any DIP Obligations and DIP Protections incurred or granted by the Debtors prior to the actual receipt of written notice by the Investment Agent of the effective date of such reversal, modification, vacatur or stay shall be governed in all respects by the original provisions of this Final Order, and the Secured Parties shall be entitled to all of the DIP Protections and all other rights, remedies, liens, priorities, privileges, protections and benefits granted in section 364(e) of the Bankruptcy Code, this Final Order and pursuant to the Finance Documents with respect to all use of Collateral and all other DIP Obligations.

30. *Survival of Final Order.* The provisions of this Final Order and the Finance Documents, any actions taken pursuant hereto or thereto and all of the DIP Protections and all other rights, remedies, DIP Liens, Superpriority Claims, priorities, privileges, protections and benefits granted to any or all of the Secured Parties shall survive, and shall not be modified, impaired or discharged by, the entry of any order confirming any plan of reorganization in any Case, converting any Case to a case under chapter 7, dismissing any of the Cases, withdrawing of the reference of any of the Cases or any successor proceedings or providing for abstention from handling or retaining of jurisdiction of any of the Cases in this Court, or terminating the joint administration of these Cases or by any other act or omission. The terms and provisions of this Final Order, including all of the DIP Protections and all other rights, remedies, DIP Liens, Superpriority Claims, priorities, privileges, protections and benefits granted to any or all of the Secured Parties, shall continue in full force and effect notwithstanding the entry of any such order, and such DIP Protections shall continue in these proceedings and in any successor proceedings, and shall maintain their respective priorities as provided by this Final Order. The DIP Obligations shall not be discharged by the entry of an order confirming the Proposed Plan or

any other such chapter 11 plan, the Debtors having waived such discharge pursuant to section 1141(d)(4) of the Bankruptcy Code.

31. *Expenses.* As provided in, and subject to the limitations and exceptions set forth in, the Finance Documents, the applicable Debtors will pay all reasonable out-of-pocket fees, costs, expenses and other charges incurred by the Investment Agent (including, without limitation, the reasonable out-of-pocket fees and disbursements of all counsel for the Investment Agent and any internal or third-party appraisers, consultants and auditors advising the Investment Agent) in connection with the preparation, execution, delivery, syndication and administration of the Finance Documents, this Final Order and any other agreements, instruments, pleadings or other documents prepared or reviewed in connection with any of the foregoing, whether or not any or all of the transactions contemplated hereby or by the Finance Documents are consummated. Payment of such reasonable out-of-pocket fees, costs, expenses and other charges are approved and allowed pursuant to this Final Order and shall not be subject to any further review by or further procedure of this Court except as expressly permitted by this paragraph. Participant Professionals shall not be required to comply with the U.S. Trustee fee guidelines or submit invoices to the Court, U.S. Trustee, the or any other party-in-interest absent further court order. Copies of invoices submitted to the Debtors by such Participant Professionals shall be forwarded by the Debtors to the U.S. Trustee, counsel for the Committee, and such other parties as the Court may direct. The invoices shall be sufficiently detailed to enable a determination as to the reasonableness of such fees and expenses (without limiting the right of the various professionals to redact privileged, confidential or sensitive information). If the Debtors, U.S. Trustee or counsel for the Committee object to the reasonableness of the fees and expenses of any of the Participant Professionals and cannot resolve such objection within ten

(10) days of receipt of such invoices, the Debtors, U.S. Trustee or the Committee, as the case may be, shall file and serve on such Participant Professionals an objection with the Court (the "**Fee Objection**") limited to the issue of whether such fees and expenses constitute reasonable out-of-pocket fees and expenses; provided that no ruling of the Court with respect to any Fee Objection shall modify, supplement or otherwise affect the terms and conditions of the Finance Documents. The Debtors shall timely pay in accordance with the terms and conditions of this Final Order the undisputed fees, costs and expenses reflected on any invoice to which a Fee Objection has been timely filed and shall pay any such remaining fees, costs and expenses owed following a final resolution of the Fee Objection by agreement or adjudication by the Court.

32. *Release.* The Participants (in their capacities as such), the Investment Agent, the Security Agent, Goldman Sachs International, the other Secured Parties (in their capacities as such) and their respective officers, directors, employees, advisors and attorneys shall be deemed to be forever released and discharged by the Debtors and the Debtors' estates from any and all claims, causes of action, litigation claims, avoidance claims and any other debts, obligations, rights, suits, damages, expenses, actions, remedies, judgments and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, fixed or contingent, matured or unmatured, existing at any time, whether in law, at equity, whether for tort, contract, or otherwise, arising from or related in any way to the Debtors or their respective properties, assets and estates, the Facility and the Cases.

33. *No Waiver.* Neither the failure of the Secured Parties to seek relief or otherwise exercise their respective rights and remedies under this Final Order, the Finance Documents or otherwise (or any delay in seeking or exercising same), shall constitute a waiver of any of such parties' rights hereunder, thereunder, or otherwise. Except as expressly provided herein, nothing

contained in this Final Order shall impair or modify any rights, claims or defenses available in law or equity to any Secured Party. Except as prohibited or limited by this Final Order, the entry of this Final Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, or otherwise impair the Secured Parties under the Bankruptcy Code or other applicable law, to (i) request conversion of the Cases to cases under chapter 7, dismissal of the Cases, or the appointment of a trustee in the Cases, (ii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, any chapter 11 plan or plans with respect to any of the Debtors, or (iii) exercise any of the rights, claims or privileges (whether legal, equitable or otherwise) of the Secured Parties.

34. *No Third Party Rights.* Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary.

35. *Amendments.* No waiver, modification, or amendment of any of the provisions hereof shall be effective unless set forth in writing, signed by or on behalf of all the Debtors and the Investment Agent and, except as provided in the immediately preceding sentence, approved by this Court or permitted by this Final Order.

36. *Headings.* Paragraph headings used herein are for convenience only and are not to affect the construction of or to be taken into consideration in interpreting this Final Order.

37. *Jurisdiction.* The Bankruptcy Court has and will retain jurisdiction to enforce this Final Order according to its terms.

Dated: _____, 2013
New York, New York

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Commitment Documents

GOLDMAN SACHS INTERNATIONAL
Peterborough Court
133 Fleet Street
London EC4A 2BB
United Kingdom

PERSONAL AND CONFIDENTIAL

May 2, 2013

Arcapita Bank B.S.C.(c)
c/o Bernard Douton
Rothschild
1251 Sixth Avenue, 51st Floor
New York, New York 10020

Commitment Letter

Ladies and Gentlemen:

Goldman Sachs International (**"Goldman Sachs"**) is pleased to confirm the arrangements under which it (i) is exclusively authorized by Arcapita Bank B.S.C.(c) (**"Arcapita Bank"**) to act as sole lead arranger, sole bookrunner, and sole syndication agent in connection with, (ii) is exclusively authorized by Arcapita Bank to act as investment agent in connection with, and (iii) commits to provide the financing for, certain transactions described herein, in each case on the terms and subject to the conditions set forth in this letter and the attached Annexes A, B and C hereto (collectively, this **"Commitment Letter"**). Capitalized terms that are not defined herein are used with the meanings ascribed to such terms in Annexes A, B and C, as applicable.

You have informed us that Arcapita Bank and certain of its direct and indirect subsidiaries commenced voluntary cases under Chapter 11 of Title 11 of the United States Code (the **"Bankruptcy Code"**) on March 19, 2012 in the Southern District of New York, which are jointly-administered by the U.S. Bankruptcy Court for the Southern District of New York (the **"Bankruptcy Court"**) under the caption: *In re Arcapita Bank B.S.C.(c), et al.*, Case No. 12-11076 (SHL) (the **"Chapter 11 Cases"**). You have also informed us that the debtors in the Chapter 11 Cases are Arcapita Bank, Arcapita Investment Holdings Limited (**"AIHL"**), Arcapita LT Holdings Limited, WindTurbine Holdings Limited, AEID II Holdings Limited, and RailInvest Holdings Limited (collectively, the **"Debtors"**). You have further informed us that AIHL filed a winding up petition in FSD Cause No. 45 of 2012 – AJ (the **"Cayman Proceeding"**) in the Grand Court of the Cayman Islands (the **"Cayman Court"**) and sought appointment of joint provisional liquidators pursuant to s.104(3) Companies Law (2011 Revision), which joint provisional liquidators were appointed by order of the Cayman Court on March 20, 2012.

You have also informed us that Arcapita Bank, certain of the other Debtors and certain of their direct and indirect subsidiaries wish to obtain an up to $150 million secured superpriority debtor-in-possession Murabaha financing facility (the **"Murabaha DIP Facility"**), which may convert into a senior secured exit Murabaha financing facility, with (i) an incremental additional $200 million available thereunder so long as the SCB Facilities (as defined below) are repaid with the proceeds thereof or (ii) only if Arcapita Bank elects to keep the SCB Facilities outstanding following the occurrence of the effective date under the Plan and consummation of the Plan and downsize such additional financing (such election to occur no later than May 20, 2013), an incremental additional $100 million available thereunder, in each case,

subject to the additional conditions set forth herein (the **"Murabaha Exit Facility"** and together with the Murabaha DIP Facility, the **"Facilities"**); in each case, having the terms and conditions set forth on Annexes B and C hereto.

1. Commitments; Titles and Roles.

Goldman Sachs is pleased to confirm its agreement to act, and you hereby appoint Goldman Sachs to act, as sole lead arranger, sole bookrunner and sole syndication agent in connection with the Facilities. Goldman Sachs is pleased to confirm its agreement to act, and you hereby appoint Goldman Sachs to act as investment agent (the **"Investment Agent"**) for the Facilities, Goldman Sachs is pleased to commit to provide Arcapita Bank the full $350 million of the Facilities so long as the SCB Facilities are repaid with the proceeds of the Murabaha Exit Facility (or $250 million of the Facilities only if Arcapita Bank elects to downsize the Murabaha Exit Facility no later than May 20, 2013) on the terms and subject to the conditions contained in this Commitment Letter and the Fee Letter (referred to below). Our fees for our services related to the Facilities are set forth in a separate fee letter (the **"Fee Letter"**) entered into by Arcapita Bank and Goldman Sachs on the date hereof.

2. Conditions Precedent.

Goldman Sachs' commitments and agreements are subject to (i) there not having occurred, since the date hereof, any event that has resulted in or could reasonably be expected to result in a material adverse change in or effect on the general affairs, management, financial position or results of operations of Arcapita Bank and its consolidated subsidiaries, taken as a whole, (other than those events typically resulting from the filing or continuation of the Chapter 11 Cases and Cayman Proceeding or the announcement of the filing of the Chapter 11 Cases and Cayman Proceeding) (a "***Material Adverse Change***"), (ii) the satisfactory negotiation, execution and delivery of appropriate definitive documents relating to the Facilities on terms consistent with this Commitment Letter including, without limitation, Murabaha agreements, an investment agency agreement, guarantees, security agreements, pledge agreements, real property security agreements, opinions of counsel, fatwas of Sharia'a advisors and other related definitive documents as deemed necessary by Goldman Sachs (collectively, the **"Facilities Documents"**), (iii) the accuracy of the representations and warranties set forth in paragraph 4 of this Commitment Letter and (iv) the other conditions set forth or referred to in Annexes B and C hereto.

3. Syndication

Goldman Sachs intends, and reserves the right, to syndicate the Facilities to the Participants, and you acknowledge and agree that the commencement of syndication shall occur in the discretion of Goldman Sachs. Goldman Sachs will select the Participants after consultation with Arcapita Bank. Goldman Sachs will lead the syndication, including determining the timing of all offers to potential Participants, any title of agent or similar designations or roles awarded to any Participant and the acceptance of commitments, the amounts offered and the compensation provided to each Participant from the amounts to be paid to Goldman Sachs pursuant to the terms of this Commitment Letter and the Fee Letter. Goldman Sachs will determine the final commitment allocations and will notify Arcapita Bank of such determinations. To facilitate an orderly and successful syndication of the Facilities, you agree that, until 45 days following the date of initial funding under the Facilities, Arcapita Bank, the Debtors and their respective direct and indirect subsidiaries or their respective affiliates will not (i) raise, contract, issue, arrange, syndicate or incur (or announce an intention to raise, contract, issue, arrange, syndicate or incur) any other debt financing in the international or any relevant domestic money, debt, bank or capital markets (including but not limited to, any private or public Sukuk issue, private placement, note issuance, bilateral or syndicated Murabaha, or other financing, whether or not Sharia'a-compliant (other than (a) the Facilities and other financing contemplated hereby to remain outstanding after the Closing Date, (b) debt

instruments to be issued in accordance with the Plan upon the effective date of the Plan, and (c) financing issued by any portfolio company of Arcapita LT Holdings Limited, including any renewals or refinancings of any existing financing facility or security), without the prior written consent of Goldman Sachs; (ii) disclose any information to any person in relation to a Participation; (iii) make a price (whether firm or indicative) with a view to buying or selling a Participation; or (iv) enter into (or agree to enter into) any agreement, option or other arrangement, whether legally binding or not, giving rise to the assumption of any risk or participation in any exposure in relation to a Participation. Notwithstanding the foregoing, Arcapita Bank may receive (but not solicit) proposals for debtor in possession financing and exit financing, negotiate such proposals and provide due diligence information to third parties in connection with such proposals.

Arcapita Bank agrees to cooperate with Goldman Sachs, agrees to cause the Debtors to cooperate with Goldman Sachs, and agrees to make its Sharia'a advisors available to Goldman Sachs and Goldman Sachs' Sharia'a advisors, in connection with the syndication of Facilities by making available to prospective Participants, subject to entry into confidentiality agreements and, in the case of the KPMG and CBRE reports, hold harmless letters, in each case, on substantially the same terms as those agreed by Goldman Sachs, access to the online data room established and maintained by Arcapita Bank containing information with respect to Arcapita Bank and its subsidiaries and the proposed Facilities, including customary information regarding the business, operations, financial projections and prospects of Arcapita Bank and its subsidiaries in order to complete the syndication of the Facilities (the "**Company Data Room**"), access to the valuation reports and waterfall analyses prepared by, and based on reports by, KPMG and CBRE and access to the DIP Budget. For the avoidance of doubt the completion of syndication shall not be a condition to the Closing Date, the Initial Transaction Date or the Conversion Date. Your obligations under this paragraph shall survive until 45 days following the date of initial funding under the Facilities. Arcapita Bank will be solely responsible for the contents of the DIP Budget and all other information, documentation or materials delivered to Goldman Sachs in connection with the Facilities (collectively, the **"Information"**) and acknowledges that Goldman Sachs will be using and relying upon the Information without independent verification thereof. The Information will, in line with market practice and with the assistance of the Investment Agent, be provided to potential new Participants. Arcapita Bank agrees that Information regarding the Facilities and Information provided by Arcapita Bank or its professionals or representatives to Goldman Sachs in connection with the Facilities (limited to draft and execution versions of the Facilities Documents, the DIP Budget, any publicly filed financial statements any motions or other filings in the Chapter 11 Cases and Cayman Proceeding, and any other Information approved by Arcapita Bank in its reasonable discretion) may be disseminated to potential Participants and other persons through one or more internet sites (including an IntraLinks, SyndTrak or other electronic workspace (the **"Platform"**)) created for purposes of syndicating the Facilities or otherwise, in accordance with Goldman Sachs' standard syndication practices (including click-through agreements reasonably satisfactory to you), and you acknowledge that neither Goldman Sachs nor any of its affiliates will be responsible or liable to you or any other person or entity for damages arising from the use by others of any Information or other materials obtained on the Platform.

Arcapita Bank acknowledges that certain of the Participants may be "public side" Participants (i.e., Participants that do not wish to receive material non-public information with respect to Arcapita Bank, the Debtors or their respective affiliates or any of their respective securities) (each, a **"Public Participant"**). It is understood that in connection with your assistance described above, you will provide, and cause all other applicable persons to provide, authorization letters to Goldman Sachs authorizing the distribution of the Information to prospective Participants and containing a representation to Goldman Sachs, in the case of information to be distributed to Public Participants, that such Information does not include material non-public information about Arcapita Bank, the Debtors or their respective affiliates or their respective securities. In addition, Arcapita Bank will clearly designate as such all Information provided to Goldman Sachs by or on behalf of Arcapita Bank or the Debtors which is suitable to make available to Public

Participants. Arcapita Bank acknowledges and agrees that the following documents may be distributed to all Participants (including Public Participants): (a) drafts and final versions of the Facilities Documents; (b) administrative materials prepared by Goldman Sachs for prospective Participants (such as a participant meeting invitation, allocations and funding and closing memoranda); (c) term sheets and notification of changes in the terms of the Facilities; and (d) the Final DIP Order, the Cayman Order, the Budget and any motions or other documents to be filed in the Chapter 11 Cases or Cayman Proceeding. You hereby inform Goldman Sachs that certain documentation made available to Goldman Sachs on the Company Data Room includes material non-public information.

4. Information.

Arcapita Bank represents and covenants that (i) all Information (other than financial projections, forecasts, budgets and other forward-looking statements and other information of a general economic or industry nature) provided directly or indirectly by Arcapita Bank or the Debtors to Goldman Sachs or the Participants in connection with the transactions contemplated hereunder is and will be, when taken as a whole, complete and correct in all material respects and does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein not misleading and (ii) the financial projections, forecasts, budgets and other forward-looking statements, including, without limitation, the DIP Budget, that have been or will be made available to Goldman Sachs or the Participants by or on behalf of Arcapita Bank or the Debtors have been and will be prepared in good faith based upon assumptions that are believed by the preparer thereof to be reasonable at the time such financial projections are furnished to Goldman Sachs or the Participants, it being understood and agreed that financial projections are not a guarantee of financial performance and actual results may differ from financial projections and such differences may be material. You agree that if at any time prior to the later of (i) the Closing Date and (ii) the termination of the syndication of the Facilities as determined by Goldman Sachs (which shall not be later than 45 days after the Closing Date), any of the representations in the preceding sentence would be incorrect in any material respect if the Information and financial projections were being furnished, and such representations were being made, at such time, then you will promptly supplement, or cause to be supplemented, the Information and financial projections so that such representations will be correct in all material respects under those circumstances. In arranging and syndicating the Facilities, we will be entitled to use and rely on the Information and the financial projections, including, without limitation, the DIP Budget, without responsibility for independent verification thereof. We will have no obligation to conduct any independent evaluation or appraisal of the assets or liabilities of you, the Borrower, the Debtors or any other party or to advise or opine on any related solvency issues.

You agree that you shall provide to Goldman Sachs and its advisors all information and documents relating to the Company, its subsidiaries, the portfolio companies and the related holding companies and their respective businesses, operations, assets and liabilities as Goldman Sachs may reasonably request from time to time in a reasonably prompt manner and that such materials shall be made available to Participants in the Company Data Room.

5. Indemnification and Related Matters.

In connection with arrangements such as this, it is our firm's policy to receive indemnification. Arcapita Bank agrees to the provisions with respect to our indemnity and other matters set forth in Annex A, which is incorporated by reference into this Commitment Letter.

6. Assignments.

This Commitment Letter may not be assigned by you without the prior written consent of Goldman Sachs (and any purported assignment without such consent will be null and void), is intended to be solely for the benefit of Goldman Sachs and the other parties hereto and, except as set forth in Annex A hereto, is not intended to confer any benefits upon, or create any rights in favor of, any person other than the parties hereto. Goldman Sachs may assign its commitments and agreements hereunder, in whole or in part, to any of its affiliates and, as provided above (except with respect to its role as Investment Agent), to any Participant prior to the Closing Date. In addition, until the termination of the syndication of the Facilities, as determined by Goldman Sachs, Goldman Sachs may, in consultation with Arcapita Bank, assign its commitments and agreements hereunder (other than with respect to its role as Investment Agent), in whole or in part, to additional arrangers or other Participants. Any assignment by Goldman Sachs to any potential Participant made prior to the Closing Date will only relieve Goldman Sachs of its obligations set forth herein to fund that portion of the commitments so assigned if such assignment was approved by you (pursuant to the Fee Letter or otherwise, in each case, such approval not to be unreasonably withheld or delayed); provided that, any such assignment will not relieve Goldman Sachs of its commitment to provide the full amount of the Facilities (as set forth in paragraph 2 above). Neither this Commitment Letter nor the Fee Letter may be amended or any term or provision hereof or thereof waived or otherwise modified except by an instrument in writing signed by each of the parties hereto or thereto, as applicable, and any term or provision hereof or thereof may be amended or waived only by a written agreement executed and delivered by all parties hereto or thereto. Notwithstanding the foregoing, any assignment by Goldman Sachs of its role as Investment Agent (other than to any affiliate of Goldman Sachs) is subject to the consent of Arcapita Bank, not to be unreasonably withheld.

7. Confidentiality.

Please note that this Commitment Letter, the Fee Letter and any written communications provided by, or oral discussions with, Goldman Sachs in connection with this arrangement are exclusively for the information of Arcapita Bank and may not be disclosed by you to any third party or circulated or referred to publicly without our prior written consent; *provided* that we hereby consent to your disclosure of (a) this Commitment Letter, the Fee Letter and such communications and discussions to (i) Arcapita Bank's subsidiaries and (ii) their respective officers, directors, agents and advisors (including, without limitation, all legal counsel, accountants, auditors, financial advisors and other experts or advisors) in connection with the consideration or negotiation of the Facilities, in each case, who have been informed by you of the confidential nature of this Commitment Letter, the Fee Letter and such communications and discussions and who have agreed or are contractually obligated to treat such information confidentially, (b) this Commitment Letter and the Fee Letter to the office of the U.S. Trustee, the Joint Provisional Liquidators appointed in the Cayman Proceeding (the "**JPL**") and to their respective representatives and professional advisors on a confidential basis and to the statutorily appointed committee of unsecured creditors and their professional advisors (the "**Committee**"), (c) the Fee Letter, under seal in a filing with the Bankruptcy Court, upon granting of a motion to file the Fee Letter under seal, (d) the Fee Letter, on a confidential basis and subject to any prior or subsequent motion or order to file the Fee Letter under seal, to such other persons or entities determined by Goldman Sachs in its sole discretion, in each case on a confidential basis, and (e) after execution and delivery by Arcapita Bank and Goldman Sachs of this Commitment Letter and the Fee Letter, this Commitment Letter, and a redacted version of the Fee Letter reasonably acceptable to the Goldman Sachs (which at a minimum shall redact the fee provisions that may be set forth therein) to the extent required in motions, in form and substance reasonably satisfactory to Goldman Sachs, to be filed with the Bankruptcy Court solely in connection with obtaining the entry of an order approving Arcapita Bank's execution, delivery and performance of this Commitment Letter, the Fee Letter and/or the definitive Facilities Documents, (g) the aggregate amount of the fees payable under the Fee Letter, (h) the Commitment Letter, the Fee Letter and such communications and discussions in connection with the enforcement of your rights hereunder, and (i) this Commitment Letter, the Fee Letter and such communications and discussions as required by applicable law or compulsory legal process,

including pursuant to a subpoena or order issued by a court of competent jurisdiction or by a judicial, administrative or legislative body or committee (in which case you agree to inform us promptly thereof to the extent you are lawfully permitted to do so).

Except as provided in the preceding paragraph, the Company further agrees to take such reasonable actions as shall be required to prevent pricing, fees or similar terms of the Fee Letter (collectively, the **"Specified Information"**) and the contents of the Fee Letter from becoming publicly available, including without limitation by the filing of a motion or an *ex parte* request pursuant to Sections 105(a) and 107(b)(1) of the Bankruptcy Code and Bankruptcy Rule 9018, as applicable, in each case seeking an order of the applicable Bankruptcy Court authorizing the Company to file the Specified Information and the Fee Letter under seal; provided, for the avoidance of doubt, that authorization to file the Specified Information and the Fee Letter under seal shall not be required prior to disclosure except as expressly provided above.

8. Absence of Fiduciary Relationship; Affiliates; Etc.

As you know, Goldman Sachs (together with its affiliates, **"GS"**) is a full service financial institution engaged, either directly or through its affiliates, in a broad array of activities, including commercial and investment banking, financial advisory, market making and trading, investment management (both public and private investing), investment research, principal investment, financial planning, benefits counseling, risk management, hedging, financing, brokerage and other financial and non-financial activities and services globally. In the ordinary course of their various business activities, GS and funds or other entities in which GS invests or with which they co-invest, may at any time purchase, sell, hold or vote long or short positions and investments in securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers. In addition, GS may at any time communicate independent recommendations and/or publish or express independent research views in respect of such assets, securities or instruments. Any of the aforementioned activities may involve or relate to assets, securities and/or instruments of Arcapita Bank and/or other entities and persons which may (i) be involved in transactions arising from or relating to the arrangement contemplated by this Commitment Letter or (ii) have other relationships with Arcapita Bank or its affiliates. In addition, GS may provide investment banking, commercial banking, underwriting and financial advisory services to such other entities and persons. The arrangement contemplated by this Commitment Letter may have a direct or indirect impact on the investments, securities or instruments referred to in this paragraph, and employees working on the financing contemplated hereby may have been involved in originating certain of such investments and those employees may receive credit internally therefor. Although GS in the course of such other activities and relationships may acquire information about the transaction contemplated by this Commitment Letter or other entities and persons which may be the subject of the financing contemplated by this Commitment Letter, GS shall have no obligation to disclose such information, or the fact that GS is in possession of such information, to Arcapita Bank or to use such information on Arcapita Bank's behalf.

Goldman Sachs or its affiliates are, or may at any time be, (i) a creditor of the Debtors or their direct or indirect subsidiaries or affiliates (in such capacity, the "**Existing Creditor**") and/or (ii) receive an allocation of and become a participant in the Murabaha DIP Facility and the Murabaha Exit Facility (in such capacity, the "Goldman Participant"). Arcapita Bank further acknowledges and agrees for itself, its subsidiaries and its affiliates that the Existing Creditor and Goldman Participant (a) will be acting for its own account as principal in connection with the existing claims as well as any decisions it makes as a Goldman Participant, (b) will be under no obligation or duty as a result of Goldman Sachs' role in connection with the transactions contemplated by this Commitment Letter or otherwise to take any action or refrain from taking any action (including with respect to voting for or against any requested amendments), or exercising any rights or remedies, that the Existing Creditor may be entitled to take or exercise in respect of the existing claims, and (c) may manage its exposure to the existing claims and/or

the Murabaha DIP Facility and the Murabaha Exit Facility without regard to Goldman Sachs' role hereunder.

Consistent with GS's policies to hold in confidence the affairs of its customers, GS will not furnish confidential information obtained from you by virtue of the transactions contemplated by this Commitment Letter to any of its other customers. Furthermore, you acknowledge that neither GS nor any of its affiliates has an obligation to use in connection with the transactions contemplated by this Commitment Letter, or to furnish to you, confidential information obtained or that may be obtained by them from any other person.

GS may have economic interests that conflict with those of the Debtors, their direct and indirect subsidiaries, their respective equity holders, their respective creditors and/or their affiliates. You agree that GS will act under this Commitment Letter as an independent contractor and that nothing in this Commitment Letter or the Fee Letter or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between GS and the Debtors, their direct and indirect subsidiaries, their respective equity holders, their respective creditors and/or their affiliates. You acknowledge and agree that the transactions contemplated by this Commitment Letter and the Fee Letter (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between GS, on the one hand, and Arcapita Bank, on the other, and in connection therewith and with the process leading thereto, (i) GS has not assumed an advisory or fiduciary responsibility in favor of Arcapita Bank, its equity holders or its affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether GS has advised, is currently advising or will advise the Debtors, their direct and indirect subsidiaries, their respective equity holders, their respective creditors and/or their affiliates on other matters) or any other obligation to the Debtors, their direct and indirect subsidiaries, their respective equity holders, their respective creditors and/or their affiliates except the obligations expressly set forth in this Commitment Letter and the Fee Letter and (ii) GS is acting solely as a principal and not as the agent or fiduciary of the Debtors, their direct and indirect subsidiaries, their respective equity holders, their respective creditors, their affiliates or any other person. Arcapita Bank acknowledges and agrees that Arcapita Bank has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Arcapita Bank agrees that it will not claim that GS has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to Arcapita Bank, in connection with such transactions or the process leading thereto. In addition, Goldman Sachs may employ the services of its affiliates in providing services and/or performing its or their obligations hereunder and may exchange with such affiliates information concerning Arcapita Bank, the Debtors, their affiliates and other companies that may be the subject of this arrangement, and such affiliates will be entitled to the benefits afforded to Goldman Sachs hereunder.

In addition, please note that GS does not provide accounting, tax or legal advice or advice in relation to Sharia'a issues. Notwithstanding anything herein to the contrary, Arcapita Bank (and each employee, representative or other agent of Arcapita Bank) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Facilities and all materials of any kind (including opinions or other tax analyses) that are provided to Arcapita Bank relating to such tax treatment and tax structure. However, any information relating to the tax treatment or tax structure will remain subject to the confidentiality provisions hereof (and the foregoing sentence will not apply) to the extent reasonably necessary to enable the parties hereto, their respective affiliates, and their respective affiliates' directors and employees to comply with applicable securities laws. For this purpose, "tax treatment" means U.S. federal or state income tax treatment, and "tax structure" is limited to any facts relevant to the U.S. federal income tax treatment of the transactions contemplated by this Commitment Letter but does not include information relating to the identity of the parties hereto or any of their respective affiliates.

9. Miscellaneous.

Goldman Sachs' commitments and agreements hereunder shall become effective only upon entry of the Commitment Order and acceptance of the terms of this letter by Arcapita Bank, and shall otherwise expire and terminate on the first to occur of (i) a material breach by Arcapita Bank under this Commitment Letter or the Fee Letter, except for any breach of Section 3 (Syndication) of this Commitment Letter, (ii) May 3, 2013 at 5:00 p.m. New York time, unless prior to such time the Debtors shall have filed a motion (the **"Commitment Motion"**), together with a joinder thereto from the Committee, with the Bankruptcy Court in form and substance reasonably satisfactory to Goldman Sachs for authorization for the Debtors to enter into, and perform under, the Commitment Letter and Fee Letter, (iii) May 15, 2013 at 5:00 p.m. New York time, unless prior to such time an order (the **"Commitment Order"**) shall have been entered by the Bankruptcy Court in form and substance reasonably satisfactory to Goldman Sachs, among other things, granting the Commitment Motion and authorizing the Debtors to enter into, and perform under, the Commitment Letter and Fee Letter, and (iv) June 13, 2013, unless prior to such time (1) a Final DIP Order shall have been entered by the Bankruptcy Court and a Cayman Order shall have been entered by the Cayman Court (collectively with the Final DIP Order and the Commitment Order, the **"Approval Orders"**), in each instance, in form and substance reasonably satisfactory to Goldman Sachs and, among other things, authorizing the Company to enter into, and perform under, the Facilities Documents, and (2) the closing of the Murabaha DIP Facility, on the terms and subject to the conditions contained herein and in the Facilities Documents, has been consummated. In the event of any termination pursuant to this paragraph, this Commitment Letter, and Goldman Sachs' agreement to perform the services described herein, shall automatically terminate without further action or notice and without further obligation to Arcapita Bank unless Goldman Sachs shall, in its discretion, agree to an extension in writing. If any Approval Order shall at any time cease to be in full force and effect or shall be reversed, stayed or modified in any manner without the prior written consent of Goldman Sachs, Goldman Sachs may, in its own discretion, terminate its agreements under this Commitment Letter and the Fee Letter.

The provisions set forth under Sections 3, 4, 5 (including Annex A), 7 and 8 hereof and this Section 9 hereof and the provisions of the Fee Letter will remain in full force and effect regardless of whether definitive Facilities Documents are executed and delivered. The provisions set forth in the Fee Letter and under Sections 5 (including Annex A) and 7 and 8 hereof and this Section 9 will remain in full force and effect notwithstanding the expiration or termination of this Commitment Letter or Goldman Sachs' commitments and agreements hereunder.

Arcapita Bank for itself and its affiliates agrees that any suit or proceeding arising in respect of this Commitment Letter or Goldman Sachs' commitments or agreements hereunder or the Fee Letter will be tried in the Bankruptcy Court, or in the event the Bankruptcy Court does not have or does not exercise jurisdiction, then in any Federal court of the United States of America sitting in the Borough of Manhattan or, if that court does not have subject matter jurisdiction, in any state court located in the City and County of New York, and Arcapita Bank hereby submits to the exclusive jurisdiction of, and to venue in, such court. Any right to trial by jury with respect to any action or proceeding arising in connection with or as a result of either Goldman Sachs' commitments or agreements or any matter referred to in this Commitment Letter or the Fee Letter is hereby waived by the parties hereto. Arcapita Bank for itself and its affiliates 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 any of the parties hereto at the addresses above shall be effective service of process against such party for any suit, action or proceeding brought in any such court. This Commitment Letter and the Fee Letter will be

governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of laws.

Arcapita Bank hereby acknowledges that, the Debtors and the Obligors have appointed Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York 10166-0193 (Attn: Michael A Rosenthal, Esq. & Matthew J. Williams, Esq.) as its agent for service of process for purpose of the submission to jurisdiction set forth above.

Goldman Sachs hereby notifies Arcapita Bank 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"**) Goldman Sachs and each Participant may be required to obtain, verify and record information that identifies the Borrower and each of the Guarantors, which information includes the name and address of the Borrower and each of the Guarantors and other information that will allow Goldman Sachs and each Participant to identify the Borrower and each of the Guarantors in accordance with the Patriot Act. This notice is given in accordance with the requirements of the Patriot Act and is effective for Goldman Sachs and each Participant.

This Commitment Letter may be executed in any number of counterparts, each of which when executed will be an original, and all of which, when taken together, will constitute one agreement. Delivery of an executed counterpart of a signature page of this Commitment Letter by facsimile transmission or electronic transmission (in pdf format) will be effective as delivery of a manually executed counterpart hereof. This Commitment Letter and the Fee Letter are the only agreements that have been entered into among the parties hereto with respect to the Facilities and set forth the entire understanding of the parties with respect thereto and supersede any prior written or oral agreements among the parties hereto with respect to the Facilities.

[Remainder of page intentionally left blank**]**

Please confirm that the foregoing is in accordance with your understanding by signing and returning to Goldman Sachs the enclosed copy of this Commitment Letter, together, if not previously executed and delivered, with the Fee Letter on or before the close of business on May 3, 2013, whereupon this Commitment Letter and the Fee Letter will become binding agreements between us. If this Commitment Letter and the Fee Letter have not been signed and returned as described in the preceding sentence by such date, this offer will terminate on such date. We look forward to working with you on this transaction.

Very truly yours,

GOLDMAN SACHS INTERNATIONAL

By: _____
Authorized Signatory

Alisdair Fraser
Managing Director

ACCEPTED AND AGREED AS OF MAY __, 2013:

ARCAPITA BANK B.S.C.(c)

By:_____
Name:
Title:

Please confirm that the foregoing is in accordance with your understanding by signing and returning to Goldman Sachs the enclosed copy of this Commitment Letter, together, if not previously executed and delivered, with the Fee Letter on or before the close of business on May 3, 2013, whereupon this Commitment Letter and the Fee Letter will become binding agreements between us. If this Commitment Letter and the Fee Letter have not been signed and returned as described in the preceding sentence by such date, this offer will terminate on such date. We look forward to working with you on this transaction.

Very truly yours,

GOLDMAN SACHS INTERNATIONAL

By: _____
Authorized Signatory

ACCEPTED AND AGREED AS OF MAY __, 2013:

ARCAPITA BANK B.S.C.(c)

By: MC chowdhury
Name: MOHAMMED CHOWDHURY
Title: EXECUTIVE DIRECTOR

*In the event that Goldman Sachs becomes involved in any capacity in any action, proceeding or investigation brought by or against any person, including shareholders, partners, members or other equity holders of Arcapita Bank, the Debtors or their affiliates in connection with or as a result of either this arrangement or any matter referred to in this Commitment Letter or the Fee Letter (together, the **"Letters"**), Arcapita Bank agrees to periodically reimburse Goldman Sachs for its reasonable documented legal and other expenses (including the cost of any investigation and preparation) incurred in connection therewith as provided in the Fee Letter. Arcapita Bank also agrees to indemnify and hold Goldman Sachs harmless against any and all losses, claims, damages or liabilities to any such person in connection with or as a result of either this arrangement or any matter referred to in the Letters (whether or not such investigation, litigation, claim or proceeding is brought by you, your equity holders or creditors or an indemnified person and whether or not any such indemnified person is otherwise a party thereto), except to the extent that such loss, claim, damage or liability (i) has been found by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of Goldman Sachs in performing the services that are the subject of the Letters, (ii) are in respect of disputes solely among Goldman Sachs (other than in its capacity as Investment Agent or as sole lead arranger, sole bookrunner or sole syndication agent in connection with the Facilities) and any potential Participant (as defined in the Letters), or (iii) resulted from Goldman Sachs' material breach in bad faith of its payment obligations to provide the Facilities (as defined in the Letters) on the terms set forth in the Letters. If for any reason the foregoing indemnification is unavailable to Goldman Sachs or insufficient to hold it harmless, then Arcapita Bank will contribute to the amount paid or payable by Goldman Sachs as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of (i) Arcapita Bank, the Debtors and their respective affiliates, shareholders, partners, members or other equity holders on the one hand and (ii) Goldman Sachs on the other hand in the matters contemplated by the Letters as well as the relative fault of (i) Arcapita Bank, the Debtors and their respective affiliates, shareholders, partners, members or other equity holders on the one hand and (ii) Goldman Sachs with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of Arcapita Bank under this paragraph will be in addition to any liability which Arcapita Bank may otherwise have, will extend upon the same terms and conditions to any affiliate of Goldman Sachs and the partners, members, directors, agents, employees and controlling persons (if any), as the case may be, of Goldman Sachs and any such affiliate, and will be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of Arcapita Bank, Goldman Sachs, any such affiliate and any such person. Arcapita Bank also agrees that neither any indemnified party nor any of such affiliates, partners, members, directors, agents, employees or controlling persons will have any liability to Arcapita Bank, the Debtors, their affiliates or any person asserting claims on behalf of or in right of Arcapita Bank, the Debtors, their affiliates or any other person in connection with or as a result of either this arrangement or any matter referred to in the Letters, except in the case of Arcapita Bank to the extent that any losses, claims, damages, liabilities or expenses incurred by Arcapita Bank or its affiliates, shareholders, partners or other equity holders have been found by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such indemnified party in performing the services that are the subject of the Letters; provided, however, that in no event will such indemnified party or such other parties have any liability for any indirect, consequential, special or punitive damages in connection with or as a result of such indemnified party's or such other parties' activities related to the Letters.*

*In respect of any judgment or order given or made for any amount due under this Commitment Letter, the Fee Letter or the transactions contemplated hereby that is expressed and paid in a currency (the "**judgment currency**") other than United States dollars, Arcapita Bank will indemnify Goldman Sachs against any loss incurred by Goldman Sachs as a result of any variation as between (i) the rate of exchange at which the United States dollar amount is converted into the judgment currency for the purpose of such judgment or order and (ii) the rate of exchange at which Goldman Sachs is able to*

purchase United States dollars with the amount of the judgment currency actually received by Goldman Sachs. The foregoing indemnity shall constitute a separate and independent obligation of Arcapita Bank and shall survive any termination of this Commitment Letter, the Fee Letter or the transactions contemplated hereby, and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term "rate of exchange" shall include any premiums and costs of exchange payable in connection with the purchase of or conversion into United States dollars.

The provisions of this Annex A will survive any termination or completion of the arrangement provided by the Letters.

MURABAHA FACILITIES TERM SHEET

This Murabaha Facilities Term Sheet (this "Term Sheet") does not purport to summarize all the terms, conditions, representations, warranties and other provisions with respect to the transactions referred to herein. Neither Goldman Sachs International nor any of its affiliates (collectively, "Goldman Sachs") makes any representation as to the Sharia'a compliance of the transactions contemplated by this Term Sheet. You will need to make your own independent assessment as to whether the transactions contemplated herein are compliant with Sharia'a and meet your individual standards of compliance.

Unless otherwise noted, the terms described below apply to both the Murabaha DIP Facility and the Murabaha Exit Facility.

Purchaser	▪ Arcapita Investment Holdings Limited ("AIHL"), as an obligor and purchaser under the Murabaha DIP Facility and debtor-in-possession in the Chapter 11 Cases (defined below). ▪ Upon conversion to the Murabaha Exit Facility, the entity to be formed as "New Arcapita Holdco 2" ("New Arcapita Holdco 2") under the Plan (defined below), as an obligor and purchaser under the Murabaha Exit Facility, in accordance with and upon the effectiveness of the Plan.
Guarantors[1]	▪ Arcapita Bank B.S.C.(c) ("Arcapita"), each of AIHL's subsidiaries (other than Falcon Gas Storage Company, Inc.)[2] that is a debtor and debtor-in-possession (the "Subsidiary Debtors" and, collectively with Arcapita and AIHL, the "Debtors") in the chapter 11 cases pending before the U.S. Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), Case No. 12-11076 (the "Chapter 11 Cases"), Arcapita Investment Management Limited ("AIML"), Arcapita Inc., Arcapita Structured Finance Ltd, Arcapita Investment Funding Limited, Arcapita Industrial Management I Ltd, Arcapita Limited (UK) and Arcapita Pte. Limited (Singapore) (collectively with the Subsidiary Debtors, the "Guarantors" and, collectively with the Debtors, the "Obligors");[3] provided, that the guarantees shall be

1 Note to draft: Guarantors subject to diligence on post-reorganization ownership structure. To the extent the Reorganized Debtors (as defined in the Plan) retain any value, they will be Guarantors of the Murabaha Exit Facility.

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"). Notwithstanding anything set forth herein, the guarantees of WTHL, AEID II, and RailInvest shall be expressly subordinate to the guarantees of those entities in favor of Standard Chartered Bank.

3 Other Debtor and non-Debtor affiliates may be required to become Guarantors, including without limitation Murabaha WCF Entities, if such entity is the owner of any asset otherwise required to be pledged hereunder.

MURABAHA FACILITIES TERM SHEET

	structured in manner that does not conflict with the Bankruptcy Court's Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, Authorizing and Approving the Settlement with Standard Chartered Bank (Docket No. 587, the "SCB Settlement Order"). ▪ Upon conversion to the Murabaha Exit Facility, (i) WTHL, AEID II, and RailInvest, in each case as reorganized or any other entity or entities that purchase or assume substantially all of their respective assets, in each case, in accordance with and upon the effectiveness of the Plan, (ii) each of New Arcapita Holdco 2's and New Arcapita Holdco 3's (as defined in the Plan) respective subsidiaries (other than Transaction Entities (as defined below)), including, without limitation, AIML and each of the LT Caycos and the Murabaha WCF Entities (as defined below). ▪ Notwithstanding any other provision of this Term Sheet, guarantees of and superpriority claims against WTHL, AEID II, and RailInvest shall be subordinated to the existing guarantees under the SCB Facilities to the extent then outstanding.
Investment Agent	▪ Goldman Sachs International ("GSI") or an affiliate or designee thereof, as investment agent on behalf of the Participants (in such capacity, the "Investment Agent"); provided that, subject to customary provisions with respect to resignation, any assignment by GSI of its role as Investment Agent (other than to any affiliate of GSI) is subject to the reasonable consent of Arcapita Bank.
Collateral Agent	▪ A financial institution to be mutually agreed.
Participants	▪ The Investment Agent, certain banks and other financing entities that from time to time become party to the respective applicable Investment Agency Agreement subject to the terms of the Commitment Letter (the "Participants").
Participations	▪ The funds to be made available by the Participants to the Investment Agent for the purposes of the Murabaha DIP Facility or the Murabaha Exit Facility, as applicable.
Murabaha Facilities	▪ A senior secured debtor-in-possession US Dollar term Murabaha facility (the "Murabaha DIP Facility") made available by the Investment Agent in an aggregate amount up to US$150,000,000 to repay the Existing DIP Facility and for working capital and general corporate purposes, and for the other purposes listed under "Use of Proceeds" below; provided, for the avoidance of doubt, the Purchaser may elect to reduce the undrawn committed amounts at any time, subject to prior notice and minimum reduction amounts to be agreed.

MURABAHA FACILITIES TERM SHEET

	▪ Upon satisfaction of the conditions to conversion set forth herein and listed in Annex C hereto, a senior secured US Dollar term Murabaha facility (the "Murabaha Exit Facility") in an aggregate amount up to US$350,000,000 so long as the SCB Facilities are repaid with the proceeds of the Murabaha Exit Facility (or US$250,000,000 only if Arcapita Bank elects to downsize the Murabaha Exit Facility no later than May 20, 2013), inclusive of the amount of the Murabaha DIP Facility outstanding on the Conversion Date (as defined below).
Budget	▪ With respect to the Murabaha DIP Facility only, the Obligors shall provide, in each case, in form and substance reasonably satisfactory to the Investment Agent: (i) prior to the Closing Date, a rolling monthly three-month cash budget (as modified or supplemented from time to time with the prior written consent of the Investment Agent in its discretion, including any such modifications or supplements covering additional time periods, the "DIP Budget") initially for the three-month period beginning on the Closing Date, setting forth, on a line-item basis, (x) projected cash receipts (including asset sales), (y) projected disbursements (including ordinary course operating expenses, bankruptcy-related expenses, capital expenditures, deal fundings, management fees, fees and expenses of the Investment Agent and the Participants (including counsel therefor) and any other fees and expenses relating to the Facilities) and (z) total liquidity. (ii) on the fifth business day of each month, a DIP Budget variance report/reconciliation (the "DIP Budget Variance Report") (A) showing by line item actual cash receipts, disbursements and total available liquidity for the immediately preceding month, noting therein all variances, on a line-item basis, from values set forth for such period in the DIP Budget, and shall include explanations for all material variances, and (B) certified by the chief financial officer of AIHL. (iii) any covenant requiring compliance with the DIP Budget shall (a) not require compliance with any line item or line items projecting receipts or restructuring disbursements, (b) test compliance with non-restructuring disbursements on an aggregate basis and permit a variance of 10% from the aggregate test period for non-restructuring disbursements (the "Permitted Variance"), and (c) permit amounts not utilized during any testing period to be used during any subsequent period (the "Permitted Carryover"). ▪ With respect to the Murabaha Exit Facility only, the Obligors shall provide, in each case, in form and substance reasonably satisfactory to the Investment Agent: (i) prior to the Conversion Date, a rolling quarterly four-quarter cash

MURABAHA FACILITIES TERM SHEET

	budget (as modified or supplemented from time to time with the prior written consent of the Investment Agent in its discretion, including any such modifications or supplements covering additional time periods, the "Exit Budget" and, together with the DIP Budget, the "Budgets") initially for the four-quarter period beginning on the Conversion Date, setting forth, on a line-item basis, (x) projected cash receipts (including asset sales), (y) projected disbursements (including ordinary course operating expenses, bankruptcy-related expenses, capital expenditures, deal fundings, management fees, fees and expenses of the Investment Agent and the Participants (including counsel therefor) and any other fees and expenses relating to the Facilities) and (z) total liquidity. (ii) no later than the 30th day following the end of each quarter, an Exit Budget variance report/reconciliation (the "Exit Budget Variance Report") (A) showing by line item actual cash receipts, disbursements and total available liquidity for the immediately preceding quarter, noting therein all variances, on a line-item basis, from values set forth for such period in the Exit Budget, and shall include explanations for all material variances, and (B) certified by the chief financial officer of New Arcapita Holdco 2.
Investment Agency Agreement	▪ An English law-governed agreement to be entered into by the Purchaser, the Guarantors, the Investment Agent, the Participants and others pursuant to which the Participants, among other things, appoint the Investment Agent as their agent to enter into the Murabaha Contracts contemplated by the Murabaha DIP Facility and the Murabaha Exit Facility, as applicable; provided, for the avoidance of doubt, that there shall be one Investment Agency Agreement for the Facilities.
Murabaha Contracts	▪ Each contract for the purchase of Commodities (as defined below) by the Purchaser on a deferred payment basis, made by the issue of an offer notice (an "Offer Notice") in relation to specified Commodities by the Investment Agent to the Purchaser and the issue of a corresponding acceptance notice by the Purchaser to the Investment Agent.
Murabaha WCF Entities	▪ Certain of those entities organized under the laws of the Cayman Islands that are wholly owned directly or indirectly by AIHL and, after the effective date of the Plan, that are owned directly or indirectly by New Arcapita Holdco 2, and used for making Murabaha investments in the Debtors' portfolio companies or other affiliates for the purposes of working capital (collectively, the "Murabaha WCF Entities").

MURABAHA FACILITIES TERM SHEET

Commodities	▪ In relation to a Murabaha Contract, the Sharia'a-compliant commodities as specified in an Offer Notice which may comprise metals traded on the London Metal Exchange and such other Sharia'a compliant commodities as may be agreed from time to time by the Purchaser and the Investment Agent and, in any event, will only include allocated commodities physically located outside the United Kingdom and exclude gold and silver.
Deferred Payment Price	▪ In relation to a Murabaha Contract, an amount equal to the aggregate sum of: - The Cost Price (as defined below), - Profit (as defined below), and - All other unpaid accrued amounts (including mandatory costs, increased costs, VAT (if any), commodity taxes and any other direct or indirect costs and expenses).
Cost Price of Murabaha DIP Facility	▪ "Cost Price" means 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 determined on the value date upon which the payment is made, or is to be made) to be on-sold by the Investment Agent to the Purchaser under a Murabaha Contract. ▪ The initial Murabaha Contract (the "Initial Murabaha Contract") may have a Cost Price of up to US$150,000,000 and shall have Cost Price of at least such amount as is necessary to repay in full all obligations outstanding under the Superpriority Debtor-In-Possession Master Murabaha Agreement, dated as of December 14, 2012, among AIHL and CF Arc LLC, as investment agent (as amended, modified or supplemented from time to time, the "Existing DIP Facility"). ▪ Further Murabaha Contracts during the Availability Period will be used to refinance, in whole, the previous Murabaha Contract upon each Deferred Payment Date. ▪ The Cost Price of any Murabaha Contract shall be no greater than the Cost Price of the maturing Murabaha Contract. ▪ For the avoidance of doubt, the aggregate amount of the Cost Prices of any outstanding Murabaha Contracts may never exceed US$150,000,000.
Cost Price of Murabaha Exit Facility	▪ The Cost Price of the initial Murabaha Contract under the Murabaha Exit Facility shall be no less than the Cost Price of the final Murabaha Contract under the Murabaha DIP Facility. ▪ Further Murabaha Contracts during the Availability Period will be used to refinance, in whole, the previous Murabaha Contract upon

MURABAHA FACILITIES TERM SHEET

	each Deferred Payment Date. ▪ The Cost Price of any Murabaha Contract shall be no greater than the Cost Price of the maturing Murabaha Contract. ▪ For the avoidance of doubt, the aggregate amount of the Cost Prices of any outstanding Murabaha Contracts may never exceed US$350,000,000 so long as the SCB Facilities are repaid upon emergence (or US$250,000,000 only if Arcapita Bank elects to downsize the Murabaha Exit Facility no later than May 20, 2013).
Profit	"Profit" means the amount specified under an Offer Notice in respect of a Murabaha Contract, calculated in accordance with the following formula: ▪ Cost Price * (L + M) * (N / 360) ▪ Where: - L is LIBOR, - M is the Margin, and - N is the number of days in the relevant Deferred Payment Period (as defined below).
Late Payment Compensation	▪ Late Payment Compensation of 2.0% above the usual Profit Rate to be defined in a manner consistent with the Existing DIP Facility.
Original Issue Discount	▪ Original Issue Discount of 1.0% for the Murabaha DIP Facility and the Murabaha Exit Facility to be documented in a Sharia'a-compliant manner.
Administration Fee	▪ An Administration Fee for the Facilities to be payable in the event that the Purchaser makes any voluntary or mandatory prepayment (other than any mandatory prepayment made prior to the first anniversary of the Conversion Date) or does not request the maximum Cost Price possible for a particular Murabaha Contract (in each case prior to the third anniversary of the Conversion Date). Such fee to be calculated as 1.0% of the relevant amount. This fee shall be separately documented in a Sharia'a-compliant manner, as an administration fee. This fee will be payable to the Investment Agent for the ratable account of each Participant (or such Participant's designees).
Seller	▪ Broker to be determined.
LIBOR	▪ LIBOR (which shall have the meaning customary and appropriate for transactions of this type) for the relevant Deferred Payment Period with LIBOR floor of 1.5%.

MURABAHA FACILITIES TERM SHEET

Margin	▪ 8.0% per annum payable in cash plus 1.75% per annum payable in kind.[4]
Availability Period	▪ For the Murabaha DIP Facility, from the Closing Date to one month prior to the DIP Termination Date. ▪ For the Murabaha Exit Facility, from the date of conversion to the Murabaha Exit Facility to three months prior to the Exit Termination Date (as defined below).
Termination Dates	▪ The Murabaha DIP Facility will mature on July 31, 2013 (the "DIP Termination Date"); provided that, in the event that the entry of the Confirmation Order will be delayed beyond July 31, 2013 as a result of regulatory related matters, the DIP Termination Date may be extended at the Purchaser's option to August 30, 2013. ▪ The Murabaha Exit Facility will mature on the date which is the three-year anniversary of the Conversion Date (the "Exit Termination Date").
Deferred Payment Period	▪ The period starting on the date of a Murabaha Contract and ending on the relevant Deferred Payment Date.
Prepetition Secured Financing Obligations	▪ Arcapita has informed Goldman Sachs that it is the counterparty under two Murabaha facilities made available by Standard Chartered Bank ("SCB"): - 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 "SCB May 2011 Facility"); 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 "SCB December 2011 Facility" and, together with the SCB May 2011 Facility, the "SCB Facilities"). ▪ Arcapita has informed Goldman Sachs that the SCB May 2011 Facility is guaranteed by each of AIHL, AIHL Sub, and WTHL, and that 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. ▪ Arcapita has informed Goldman Sachs that SCB December 2011

[4] Note to draft: Terms and Sharia'a compliance for PIK profit to be discussed. For the avoidance of doubt, the amount of the PIK profit shall be required to be paid in cash in the event that PIK profit is not able to be documented in compliance with Sharia'a as determined by Arcapita's or New Arcapita Holdco 2's, as applicable, Sharia'a Board.

MURABAHA FACILITIES TERM SHEET

	Facility is guaranteed by each of AIHL, AIHL Sub, WTHL, AEID II, and RailInvest, and that 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 Murabaha DIP Facility will include a representation that (i) the SCB Facilities and (ii) the Existing DIP Facility (with respect to any obligations that survive termination of the facility) represent the sole secured obligations of the Obligors, subject to scheduled exceptions to be mutually agreed upon.
Priority and Liens[5]	▪ 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, provided that the guarantees issued by WTHL, AEID II, and RailInvest shall be subordinated to the obligations of the Debtors in favor of SCB solely to the extent provided in the SCB Settlement Order; (ii) Pursuant to section 364(c)(2) of the Bankruptcy Code, be secured by a perfected first-priority lien (except to the extent described below) on substantially all now owned or after acquired assets (including without limitation, (i) all personal, real and mixed property of the Debtors (except as otherwise agreed to by the Investment Agent), (ii) 100% of the capital stock of each of the Obligors and other first tier subsidiaries of the Debtors and all intercompany debt payable to the Debtors) of Arcapita, AIHL and ALTHL, in each case, that are not otherwise subject to a lien securing the obligations under the SCB Facilities (including (x) AIHL's interests in the Murabaha WCF Entities (but only those that are reasonably determined to be material by the Investment Agent), (y) ALTHL's interests in the unencumbered LT Caycos (i.e., all LT Caycos other than WTHL, AEID II, and RailInvest, but only those that are reasonably determined to be material by the Investment Agent) and (z) AIHL's non-syndicated interests in the syndication companies (but only those that are reasonably determined to be material by the Investment Agent) and (iii) the Encumbered Property (defined below) solely to the extent that the valid liens on such Encumbered Property are extinguished or released; in each case, where the benefit of

[5] Security package, any modification to the SCB Settlement Order and any adequate protection other than that contained in the SCB Settlement Order to be satisfactory to the Investment Agent.

MURABAHA FACILITIES TERM SHEET

such additional collateral likely exceeds the cost of providing such security as determined by the Investment Agent; provided that any claim secured by a lien granted on any asset of WTHL, AEID II or RailInvest shall be subordinate in right of payment to the SCB Facilities;

(iii) Pursuant to section 364(c)(3) of the Bankruptcy Code, be secured by a perfected junior lien on substantially all now owned or after acquired assets of the Debtor Obligors (including without limitation, (i) all personal, real and mixed property of the Debtor Obligors (except as otherwise agreed to by the Investment Agent) and (ii) 100% of the capital stock of each of the Debtor Obligors and their first tier subsidiaries and all intercompany debt payable to the Debtor Obligors) that are subject to (x) any valid, perfected and non-avoidable lien securing the obligations under the SCB Facilities in existence on the Petition or (y) any valid lien securing the obligations under the SCB Facilities in existence on the Petition Date that is perfected subsequent to the Petition Date by section 546(b) of the Bankruptcy Code (collectively, the "Encumbered Property"); in each case, where the benefit of such additional collateral likely exceeds the cost of providing such security as determined by the Investment Agent (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") and/or proceeds thereof; and

(v) For the avoidance of doubt, be secured by perfected first-priority liens on substantially all now owned or after acquired assets of the non-Debtor Obligors (including without limitation, (i) all personal, real and mixed property of such non-Debtor Obligors (except as otherwise agreed to by the Investment Agent) and (ii) 100% of the capital stock of each of the Obligors and their first tier subsidiaries and all intercompany debt payable to such Obligors); provided, however, with respect to AIML, the Murabaha DIP Facility shall be secured by only AIML's performance and management fee receivables.

- The Murabaha Exit Facility will be a secured facility which will be secured by a perfected first-priority lien (except to the extent described below) on substantially all now owned or after acquired

MURABAHA FACILITIES TERM SHEET

	assets (including without limitation, (i) all personal, real and mixed property of the Obligors (except as otherwise agreed to by the Investment Agent), including, without limitation, any and all rights to damages upon any Put Failure (as defined in the Plan) and (ii) 100% of the capital stock of each of the Obligors and each other first tier subsidiaries of the Obligors and all intercompany debt payable to the Obligors) of the Obligors (including (w) New Arcapita Holdco 2's interests in the Murabaha WCF Entities (but only those that are reasonably determined to be material by the Investment Agent), (x) New Arcapita Holdco 2's interests in the LT Caycos (but only those that are reasonably determined to be material by the Investment Agent), (y) the LT Caycos' interest in transaction holdcos (but only those that are reasonably determined to be material by the Investment Agent) and (z) New Arcapita Holdco 2's non-syndicated interests in the syndication companies (but only those that are reasonably determined to be material by the Investment Agent); in each case, where the benefit of such additional collateral likely exceeds the cost of providing such security as determined by the Investment Agent; provided, however, with respect to AIML, the Murabaha Exit Facility may, subject to due diligence, be secured by only AIML's performance and management fee receivables. To the extent the obligations under the SCB Facilities remain outstanding in accordance with the Plan, the guarantees and liens in collateral in favor of SCB which had priority over the guarantees and liens supporting the Murabaha DIP Facility, shall have the same priority with respect to the Murabaha Exit Facility. ▪ All security arrangements under the Murabaha DIP Facility and Murabaha Exit Facility will be in form and substance reasonably satisfactory to the Investment Agent and will be perfected as of the Closing Date. ▪ To the extent the obligations under the SCB Facilities remain outstanding in accordance with the Plan, notwithstanding any other provision of this Term Sheet, guarantees of and superpriority claims against WTHL, AEID II, and RailInvest shall be subordinated to the existing guarantees under the SCB Facilities. ▪ No portion of the Carve-Out, any Collateral proceeds or proceeds of the Murabaha DIP Facility may be used for the payment of the fees and expenses of any person incurred in challenging, or in relation to the challenge of any of the Investment Agent's or Participant's liens or claims, or the initiation or prosecution of any claim or action against any of the Investment Agent or Participants.
Murabaha DIP Closing Date	▪ The date on which the Final DIP Order (as defined in Annex C) is entered by the Bankruptcy Court and definitive Transaction

MURABAHA FACILITIES TERM SHEET

	Documents are fully executed (such date, the "Closing Date"); *provided* that entry into the Transaction Documents shall be subject to the accuracy of representations and warranties under the Transaction Documents in all material respects.
Initial Transaction Date	▪ The date on or after the Closing Date on which all conditions precedent to the initial Murabaha Contract have occurred and the Initial Murabaha Contract is completed under the Murabaha DIP Facility. ▪ For the Murabaha Exit Facility, the date on or after the Closing Date on which all conditions precedent to the Murabaha Exit Facility have occurred and the initial Murabaha Contract is completed under the Murabaha Exit Facility (such date, the "Conversion Date").
Deferred Payment Dates	▪ The Deferred Payment Date in respect of all Murabaha Contracts under the Murabaha DIP Facility shall be one month after the relevant Transaction Date; provided that no Deferred Payment Date shall extend beyond the DIP Termination Date. ▪ For the Murabaha Exit Facility, the Deferred Payment Date in respect of all Murabaha Contracts shall be three months after the relevant Transaction Date; provided that no Deferred Payment Date shall extend beyond the Exit Termination Date.
Use of Proceeds	▪ The proceeds of that portion of the Murabaha DIP Facility funded on the Initial Transaction Date will be used: (i) in compliance with the disbursement terms of the DIP Budget (subject to the Permitted Variance and Permitted Carryover), to (v) pay transaction costs, profits, fees and expenses which are incurred in connection with the Facilities, including payment of professionals' fees and expenses, (w) to repay all obligations outstanding under the Existing DIP Facility, (x) for working capital and other general corporate purposes (other than the repayment of pre-petition financing obligations except as permitted in the Final DIP Order or the definitive Transaction Documents), (y) for adequate protection payments made to SCB in accordance with the SCB Settlement Order and (z) to pay other amounts, including, without limitation, in connection with investment deal fundings; and (ii) to be segregated for the benefit of a trustee appointed under Section 726(b) or 1104 of the Bankruptcy Code, members of the Committee (as defined herein) and Professional Persons (as defined herein) to pay the amounts

MURABAHA FACILITIES TERM SHEET

	that constitute 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, financing obligations, or obligations that are subjects of the Release (as defined herein). ▪ The proceeds of the Murabaha Exit Facility shall be used (i) to repay in full the obligations under the Murabaha DIP Facility, (ii) to repay in full the obligations with respect to the SCB Facilities in accordance with the Plan and (iii) for other corporate purposes, in the Purchaser's sole discretion.
Carve Out[6]	▪ "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$200,000, 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 notice of the occurrence of an Event of Default and the intention to invoke the Carve Out (a "Carve Out Notice"), and e. to the extent allowed at any time, all fees and expenses of Professional Persons and the Joint Provisional Liquidators

[6] For the avoidance of doubt, the Carve Out must be used in full and exhausted prior to the Debtors' use of the US$1 million professional fee carve out provided for in the SCB Settlement Order.

MURABAHA FACILITIES TERM SHEET

	incurred after the date upon which AIHL receives from the Investment Agent actual written receipt of an Event of Default and the intention to invoke the Carve Out, in the aggregate amount not to exceed US$15,000,000; provided that: (i) 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 Murabaha DIP Facility or otherwise, and (ii) 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 after delivery of a Carve Out Notice, and such Event of Default is subsequently cured or waived and the Carve Out Notice is rescinded in writing, such dollar limitation shall be increased by an amount equal to the amount by which it has been so reduced.
Mandatory and Voluntary Prepayments	▪ The Facilities may be prepaid in whole or in part subject to any Administration Fee that may become payable. ▪ The following mandatory prepayments will be required promptly (unless otherwise set forth herein) following receipt of the relevant proceeds (subject to certain basket amounts to be mutually agreed in the definitive Transaction Documents): 1. Asset Sales: Prepayments in an amount equal to 100% (or, with respect to the sale of Oman Logistics, AIBPD II and Saadiyat Island, 50%) of the cash proceeds (net of reasonable and ordinary transaction costs and expenses, including all fees and expenses payable to or for the account of AIM as a result of such sale in accordance with the terms of the Cooperation Settlement Term Sheet (as defined in the Plan)) of the sale or other disposition of any property or assets of the Obligors or any of their first tier subsidiaries (and such first tier subsidiaries' direct and indirect subsidiaries ("Portfolio Companies") to the extent constituting the sale of all or substantially all of the assets of such Portfolio Companies); provided that such net cash proceeds received by any

MURABAHA FACILITIES TERM SHEET

subsidiary of any Obligor will be applied to prepay the Facilities only to the extent that such net cash proceeds (i) have been paid to an Obligor or (ii) could be required to be paid to an Obligor based on the exercise of all of the Obligors' direct or indirect control of such subsidiary, payable no later than the first business day following the date of receipt; provided that, during the 18-month period following the Conversion Date (the "Retention Period"), (i) with respect to such cash proceeds (excluding proceeds from the sale of Oman Logistics, AIBPD II and Saadiyat Island) in an aggregate amount not to exceed $50 million, up to 50% may be retained in a segregated deposit account subject to a control agreement in favor of the Investment Agent (the "Proceeds Account") so long as the Loan-to-Value/Collateral Coverage Ratio as of the last day of the most recent fiscal quarter pro forma for any dispositions is greater than 2.25x, and (ii) with respect to such cash proceeds (excluding proceeds from the sale of Oman Logistics, AIBPD II and Saadiyat Island) in an aggregate amount not to exceed an additional $100 million, up to 25% may be retained in the Proceeds Account so long as the Loan-to-Value/Collateral Coverage Ratio as of the last day of the most recent fiscal quarter pro forma for any dispositions is greater than 2.25x. At any time during the Retention Period that the Obligors' cash on hand is less than $25 million, the Obligors may withdraw (i) up to $25 million so long as the Loan-to-Value/Collateral Coverage Ratio as of the last day of the most recent fiscal quarter is greater than 2.50x and (ii) the remaining amount so long as the Loan-to-Value/Collateral Coverage Ratio as of the last day of the most recent fiscal quarter is greater than 3.0x. Any amounts remaining in the Proceeds Account (i) following the Retention Period or (ii) following an Event of Default shall be applied as a prepayment.

2. Insurance Proceeds and Extraordinary Events: Prepayments in an amount equal to 100% of the cash proceeds (net of reasonable and ordinary transaction costs and expenses) of insurance paid on account of any loss of any property or assets of the Obligors or any of their first tier subsidiaries (and Portfolio Companies to the extent relating to a loss of all or substantially all of the assets of such Portfolio Companies); provided that such net cash proceeds received by any subsidiary of any Obligor will be applied to prepay the Facilities only to the extent that such net cash proceeds (i) have been paid to an Obligor or (ii) could be required to be paid to an Obligor based on the exercise of all of the Obligors' direct or indirect control of such subsidiary, or of any

MURABAHA FACILITIES TERM SHEET

"extraordinary event" (the definition of which is to be agreed, but which shall exclude, for the avoidance of doubt, any equity issued in connection with a confirmed chapter 11 plan for the Debtors), with exceptions following the entry of the Final DIP Order as may be agreed, payable no later than the first business day following the date of receipt.

3. Incurrence of Financing Obligations: Prepayments in an amount equal to 100% of the cash proceeds (net of reasonably and ordinary costs and expenses) received from the incurrence of financing obligations Purchaser or its wholly-owned subsidiaries (other than financing obligations otherwise permitted under the Transaction Documents), payable no later than the first business day following the date of receipt.

4. Chapter 11 Events: The Murabaha DIP Facility must be prepaid in full in cash and cancelled in full on:

   (a) the effective date of a chapter 11 plan for the Debtors,

   (b) the date the Bankruptcy Court orders the conversion of the Chapter 11 Case of any Debtor to a chapter 7 liquidation or the dismissal of the Chapter 11 Case of any Debtor, or

   (c) the date upon which the sale of all or substantially all of the Obligors' assets is consummated.

For the avoidance of doubt, there shall be no Mandatory Prepayment from the proceeds of (a) any equity raise or issuance of equity securities performed in connection with a chapter 11 plan of reorganization, (b) cash distributions in respect of litigation relating to Falcon Gas Storage Company, Inc. or an escrow account relating thereto or (c) to the extent the obligations under the SCB Facilities remain outstanding, any sale or other disposition of assets upon which then existing obligations in favor of SCB have priority over the Murabaha DIP Facility or Murabaha Exit Facility; provided that the proceeds of such sale or other disposition from such assets are (i) applied to the permanent repayment of the SCB Facilities (no later than the effective date of the Plan, if then outstanding, or if after the effective date of the Plan, the first business day following the date of receipt) and (ii) pending such application are held in escrow or other arrangements satisfactory to the Investment Agent which ensure that such proceeds are utilized for the payment of the SCB Facilities.

Upon any Mandatory Prepayment or Voluntary Prepayment, the Investment Agent in its sole discretion may determine that a rebate of

MURABAHA FACILITIES TERM SHEET

	part of the Profit can be made to the Purchaser.
Representations	▪ The definitive Transaction Documents for the Murabaha DIP Facility will include the following representations and warranties by AIHL and the other Obligors: due organization; requisite power and authority; qualification; equity interests and ownership; due authorization, execution, delivery and enforceability of the Transaction Documents; creation, perfection and priority of security interests; no conflicts; governmental consents; historical and projected financial condition; no Material Adverse Change; absence of material unstayed litigation; payment of post-petition taxes; title to properties; environmental matters; no defaults under post-petition material agreements; Investment Company Act and margin stock matters; compliance with laws; full and accurate disclosure (subject on the Closing Date to the second paragraph of Section 4 of the Commitment Letter), including with respect to voting and proxy rights; Patriot Act and other related matters; anti-bribery conduct; money laundering laws; no immunity; Sharia'a compliance; no objection as to Sharia'a compliance; and no default under third party financing and other material agreements of Portfolio Companies arising from the enforcement of remedies on the Murabaha DIP Facility. ▪ The definitive Transaction Documents for the Murabaha Exit Facility will include the following representations and warranties by New Arcapita Holdco 2 and the other Obligors: due organization; requisite power and authority; qualification; equity interests and ownership; due authorization, execution, delivery and enforceability of the Transaction Documents; creation, perfection and priority of security interests; no conflicts; governmental consents; historical and projected financial condition; absence of material unstayed litigation; payment of taxes; title to properties; environmental matters; no defaults under material agreements; Investment Company Act and margin stock matters; compliance with laws; full disclosure; Patriot Act and other related matters; anti-bribery conduct; money laundering laws; Sharia'a compliance; no objection as to Sharia'a compliance; and no default under third party financing and other material agreements of Portfolio Companies arising from the enforcement of remedies on the Murabaha Exit Facility.
Affirmative Covenants	▪ The definitive Transaction Documents for the Murabaha DIP Facility will contain the following affirmative covenants by each of AIHL and the other Obligors (with respect to AIHL, the Obligors and their subsidiaries, but excluding each Transaction Holdco and any entity in which any Transaction Holdco has a direct or indirect equity interest (collectively, the "Transaction Entities")):

MURABAHA FACILITIES TERM SHEET

- delivery of the following documents and reports to the Investment Agent for distribution to the Participants, in each case in form and substance reasonably acceptable to the Investment Agent:
  - financial statements and other reports (including the identification of information as suitable for distribution to public Participants or non-public / private Participants) as well as all press releases and other statements made available to the public;
  - DIP Budgets and DIP Budget Variance Reports on the fifth business day of each month;
  - upon the request of the Investment Agent, quarterly conference calls with the chief financial officer (or such other representative reasonably satisfactory to the Investment Agent) of Arcapita to discuss the DIP Budget (and all updates and DIP Budget Variance Reports related thereto) and the status of asset dispositions;
  - as soon as practicable in advance of filing with the Bankruptcy Court, the proposed form of the Final DIP Order (which must be in form and substance reasonably satisfactory to the Investment Agent), all other proposed orders and pleadings related to the Murabaha DIP Facility (which must be in form and substance reasonably satisfactory to the Investment Agent),[7] amendments to the chapter 11 plan for the Debtors filed on April 25, 2013 (Docket No. 1036; as amended, modified and supplemented in form and substance reasonably satisfactory to the Investment Agent (including all term sheets), the "Plan") and the disclosure statement related to such plan filed on April 25, 2013 (Docket No. 1038); as amended, modified and supplemented in form and substance reasonably satisfactory to the Investment Agent (including all term sheets);
  - notices of litigation, defaults and other reasonably requested information (including all documents filed with the Bankruptcy Court) with respect to the

[7] The Investment Agent hereby acknowledges that, for purposes of this provisions, the protections provided to SCB or in respect of collateral securing the SCB Facilities in the order approving the Existing DIP Facility are in form and substance reasonably satisfactory to the Investment Agent.

MURABAHA FACILITIES TERM SHEET

Obligors and their subsidiaries (excluding Transaction Entities);

- notice of any event, occurrence or circumstance in which a material portion of the Collateral is damaged, destroyed or otherwise impaired or adversely affected;

- chapter 11 plan;

- the Debtors shall oppose the approval of any plan, disclosure statement or amendment to any plan or disclosure statement, in each case, that either fails to provide for payment in full in cash of the Murabaha DIP Facility (and termination of all Participations) upon the effective date of such plan, or provides for treatment other than payment in full of the Murabaha DIP Facility without the consent of the Investment Agent and Participants in their discretion; and

- other affirmative covenants, usual and customary for Sharia'a-compliant debtor-in-possession financings as the Investment Agent shall require.

- The definitive Transaction Documents for the Murabaha Exit Facility will contain the following affirmative covenants by each of New Arcapita Holdco 2 and the other Obligors (with respect to New Arcapita Holdco 2, the Obligors and their subsidiaries (excluding Transaction Entities)):

  - delivery of the following documents and reports to the Investment Agent for distribution to the Participants, in each case in form and substance reasonably acceptable to the Investment Agent:

    - financial statements, financial projections for the following three years and other reports (including the identification of information as suitable for distribution to public Participants or non-public / private Participants) as well as all press releases and other statements made available to the public;

    - Exit Budgets and Exit Budget Variance Reports no later than the 30th day following the end of each quarter;

    - upon the request of the Investment Agent, quarterly conference calls with the chief financial officer of New Arcapita Holdco 2 (or such other representative

MURABAHA FACILITIES TERM SHEET

	reasonably satisfactory to the Investment Agent) to discuss the Exit Budget (and all updates and Exit Budget Variance Reports related thereto) and the status of asset dispositions; o notices of litigation, defaults and other reasonably requested information with respect to the Obligors and their subsidiaries (excluding Transaction Entities); o notice of any event, occurrence or circumstance in which a material portion of the Collateral is damaged, destroyed or otherwise impaired or adversely affected; - other affirmative covenants, usual and customary for Sharia'a-compliant financings as the Investment Agent shall require.
Negative Covenants	▪ The definitive Transaction Documents for the Murabaha DIP Facility will contain the following negative covenants by each of AIHL and the other Obligors (with respect to AIHL, the Obligors and their subsidiaries (excluding Transaction Entities)): limitations with respect to other financing obligations; liens; negative pledges; capital expenditures; restricted junior payments (e.g. no dividends, redemptions or voluntary payments on certain financing obligations); restrictions on subsidiary distributions; investments (but permitting investments in current Portfolio Companies to the extent contractually required or otherwise permitted by the Transaction Documents in an amount to be agreed), mergers and acquisitions; sales of assets (including subsidiary interests); sales and lease-backs; transactions with affiliates; conduct of business; permitted activities of the Obligors and their subsidiaries; amendments and waivers of organizational documents, junior financing obligations and other material contracts; use of proceeds in violation of the Foreign Corrupt Practices Act; and changes to fiscal year, including, in each case, exceptions and baskets to be mutually agreed upon (including exceptions permitting the wind down of PointPark Properties s.r.o. so long as no default or Event of Default is continuing). ▪ The definitive Transaction Documents for the Murabaha Exit Facility will contain the following negative covenants by each of New Arcapita Holdco 2 and the other Obligors (with respect to New Arcapita Holdco 2, the Obligors and their subsidiaries (excluding Transaction Entities)): limitations with respect to other financing obligations; liens; negative pledges; capital expenditures; restricted junior payments (e.g. no dividends, redemptions or voluntary payments on certain financing obligations); restrictions on subsidiary

MURABAHA FACILITIES TERM SHEET

	distributions; investments, mergers and acquisitions; sales of assets (including subsidiary interests); sales and lease-backs; transactions with affiliates; conduct of business; permitted activities of the Obligors and their subsidiaries; amendments and waivers of organizational documents, junior financing obligations and other material contracts; use of proceeds in violation of the Foreign Corrupt Practices Act; and changes to fiscal year, including, in each case, exceptions and baskets to be mutually agreed upon (including exceptions permitting the wind down of PointPark Properties s.r.o. so long as no default or Event of Default is continuing).
Financial Covenants	▪ Minimum Liquidity of US$15,000,000 (at all times) (including any undrawn portion of the Murabaha DIP Facility or Murabaha Exit Facility, as applicable), and ▪ Loan-to-Value/Collateral Coverage Ratio of not less than 2.00x to be tested quarterly on terms and based on valuations to be agreed; provided that such covenant for the first quarter ending after the Closing Date shall be tested based on the values set forth on Annex D attached hereto.
Conditions Precedent to the Murabaha Contracts	▪ Conditions to the transactions pursuant to the Initial Murabaha Contract: o The obligations of the Investment Agent (on behalf of the Participants) to make, or cause one of their respective affiliates to enter into, the Initial Murabaha Contract under the Murabaha DIP Facility on the Initial Transaction Date will be subject to the applicable conditions precedent listed on Annex C attached hereto, and such other conditions as set forth herein (in each case, as determined by the Investment Agent in its sole discretion); ▪ Conditions to the transactions pursuant to each Murabaha Contract: o The conditions to all Murabaha Contracts will include requirements relating to prior written notice of an intention to purchase Commodities, maximum cash balances, the accuracy of representations and warranties and, prior to and after giving effect to the effectiveness of the Murabaha DIP Facility or Murabaha Exit Facility, as applicable, and any Murabaha Contract, the absence of any default or Event of Default, unless waived by the Investment Agent (acting at the discretion of Participants holding more than 50% of the Participations and commitments with respect thereto). Such conditions shall also include the following: (a) with respect to any Murabaha Contract under the Murabaha DIP Facility, the Final DIP Order, as the

MURABAHA FACILITIES TERM SHEET

	case may be, shall be in full force and effect, and shall not have been reversed, modified, amended, stayed, vacated or subject to a stay pending appeal; and (b) with respect to any Murabaha Contract: (i) the Debtors shall have paid the balance of all fees then due and payable as referenced herein; and (ii) no Broker Disruption Event has occurred or is continuing (for these purposes, a "Broker Disruption Event" means that the Investment Agent is unable, after using commercially reasonable efforts, to enter into or maintain a purchase and sale agreement with the Seller (or an acceptable replacement), including where Commodities cannot be sourced for the purposes of a Murabaha Contract). ▪ Conditions to Conversion to Murabaha Exit Facility 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 "Murabaha Exit Facility"). The obligations of the Investment Agent (on behalf of the Participants) to make, or cause one of their respective affiliates to provide the Murabaha Exit Facility will be subject to (i) compliance with a Collateral Coverage test based on KPMG valuations and (ii) the applicable conditions precedent listed on Annex C attached hereto.
Events of Default	▪ The Murabaha DIP Facility shall contain events of default customary or appropriate in the context of the proposed Murabaha DIP Facility, including: - The entry of an order dismissing the case or converting any Debtor's[8] chapter 11 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 (other than (i) the claims of SCB related to the SCB Facilities and (ii) claims surviving termination of the Existing DIP Facility) superpriority

[8] For the avoidance of doubt, Falcon Gas Company, Inc. shall not be included as a "Debtor" or "Obligor" for purposes of determining the Events of Default

MURABAHA FACILITIES TERM SHEET

	status or a lien equal or superior to that granted to the prospective Investment Agent for the ratable benefit of the Participants; - The entry of an order staying, reversing, vacating, or modifying the Murabaha DIP Facility or the Final DIP Order without the Investment Agent's prior written consent; - The failure of AIHL to pay the Deferred Payment Price or any other amounts when due; - Any material adverse event in the pending insolvency proceedings of AIHL before the Grand Court of the Cayman Islands (the "Cayman Proceeding"). For purposes of this clause, a "material adverse event" means any event, change, effect, development, circumstance or condition that has caused or could reasonably be expected to cause a material adverse change, material adverse effect on and/or material adverse developments with respect to (i) the business, assets, liabilities, operations, management, condition (financial or otherwise), or results of operations of the Obligors and their subsidiaries taken as a whole; (ii) the ability of any Obligor to fully and timely perform its obligations under the Transaction Documents; (iii) the legality, validity, binding effect or enforceability against any Obligor of any Transaction Document to which it is a party; or (iv) the rights, remedies and benefits available to, or conferred upon, any Investment Agent or any Participant under any Transaction Document; - The failure of any Obligor to comply with financial or 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 asset of any of the Obligors with a value in excess of US$100,000,000; - The violation of any material term, provision or condition in the Final DIP Order; - The default under another agreement or instrument of financing obligations, including any default under the SCB Settlement Order, provided that it shall not constitute an Event of Default if the aggregate amount owed resulting from such default is less than $10,000,000; - The failure to satisfy or stay execution of judgments in excess of specified amounts; - Any Obligor shall seek to repudiate any obligation under the

MURABAHA FACILITIES TERM SHEET

Murabaha DIP Facility, or any such obligation shall cease to be legal, valid or enforceable in any material respect;

- The impairment of a security interest in collateral (other than immaterial portions of collateral);
- The invalidity of guarantees or any obligation or security;
- The occurrence of a "change of control" (to be defined in a mutually agreed upon manner);
- The entry of an order or filing authorizing, approving, granting or seeking (A) additional post-petition financing not otherwise permitted, (B) any liens on the Collateral not otherwise permitted, (C) modification of the Commitment Letter, or (D) any action adverse to the Investment Agent or any Participant or their rights and remedies or their interest in the Collateral;
- The commencement of any action, adversary proceeding or motion against any of the Investment Agent or any Participant by or on behalf of any Debtor or any of its affiliates, officers or employees;
- The Final DIP Order shall cease to be in full force and effect or shall have been reversed, modified, amended, stayed, vacated or subject to a stay pending appeal, in the case of any modification or amendment, without the prior written consent of the Investment Agent;
- The allowance of any claim under Section 506(c) of the Bankruptcy Code or otherwise against any or all of the Investment Agent, the Participants and the Collateral; and
- The filing by the Debtors or any other person or party of any chapter 11 plan or related disclosure statement or any direct or indirect amendment to such plan or disclosure statement, or the entry of an order confirming any plan of reorganization or approving any disclosure statement or approving any amendment (in each case, whether or not proposed by the Debtors), in each case that (i) fails to provide for payment in full in cash of the Murabaha DIP Facility (and termination of all Participations) upon the effective date of such plan, (ii) fails to provide for the conversion of the Murabaha DIP Facility into the Murabaha Exit Facility or (iii) treats the claims of the Investment Agent and Participants in any other manner to which they do not consent in their discretion.

▪ The Murabaha Exit Facility shall contain events of default customary or appropriate in the context of the proposed Murabaha Exit Facility, including (subject to materiality and cure periods to be agreed):

- The failure of New Arcapita Holdco 2 to pay the Deferred

MURABAHA FACILITIES TERM SHEET

	Payment Price or any other amounts when due; - The failure of any Obligor to comply with financial or other covenants; - Any representation or warranty by any Obligor shall be incorrect in any material respect when made; - The default under any other agreement or instrument of financing obligations, including any default under the SCB Facilities (to the extent then outstanding) or the Sukuk Facility; - The failure to satisfy or stay execution of judgments in excess of specified amounts; - Insolvency; - Insolvency proceedings; - Creditors' process; - Material litigation; - Any Obligor shall seek to repudiate any obligation under the Murabaha Exit Facility, or any such obligation shall cease to be legal, valid or enforceable in any material respect. - The impairment of a security interest in collateral; - The invalidity of guarantees or any obligation or security; - The occurrence of a "change of control" (to be defined in a mutually agreed upon manner); - Any Put Failure (as defined in the Cooperation Term Sheet) by Reorganized Arcapita (as defined in the Cooperation Term Sheet) for any Transaction Holdco in which Reorganized Arcapita is the Majority Investor (as defined in the Cooperation Term Sheet); and - The commencement of an administration or similar regulatory proceeding, or appointment of an asset manager, receiver, custodian, trustee or similar official, with respect to any Obligor, Arcapita Bank B.S.C.(c), New Arcapita Topco or any material direct or indirect wholly-owned subsidiaries or Arcapita Bank B.S.C.(c) and/or New Arcapita Topco, in each case that is either (i) commenced voluntarily or (ii) commenced involuntarily and is not withdrawn, vacated or dismissed for 30 calendar days.
Remedies	▪ The Murabaha DIP Agreement and Final 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. ▪ The Murabaha Exit Agreement shall contain remedies customary or

MURABAHA FACILITIES TERM SHEET

	appropriate to be determined in the context of the proposed Murabaha Exit Facility, including, without limitation, foreclosing on the Collateral.
Release and Indemnification	▪ The Obligors will provide customary releases and exculpations for any claims, demands, liabilities, responsibilities, disputes, remedies causes of action, financing obligations, or obligations related to or arising out of the Murabaha DIP Facility and/or the Murabaha Exit Facility (the "Release"). ▪ The Murabaha DIP Facility and Murabaha Exit Facility will provide customary and appropriate provisions relating to indemnity and related matters in a form reasonably satisfactory to the Investment Agent and the Participants which provisions shall expressly survive the effective date of any chapter 11 plan for the Debtors and any discharge of the Debtors.
Transfers by Participants	▪ Participants shall be able to transfer freely their Participations in a Sharia'a-compliant manner to other entities without the Obligors' consent. Participants may assign all or, in an amount of not less than an amount to be agreed, of their Participations to Affiliated Funds thereof (or of other Participants) and, with the consent of the Investment Agent (not to be unreasonably withheld), to one or more banks, financial entities or other entities that are eligible assignees (other than natural persons).
Governing Law and Jurisdiction	▪ The Murabaha DIP Agreement will provide that the parties will submit to (i) the non-exclusive jurisdiction and venue of the Bankruptcy Court, and (ii) solely to the extent the Bankruptcy Court does not exert jurisdiction or venue, the exclusive jurisdiction and venue of the courts of England. ▪ The Murabaha Exit Agreement will provide that the parties will submit to the exclusive jurisdiction and venue of the courts of England. ▪ English law will govern the Transaction Documents, except with respect to certain security documents where applicable local law is necessary for enforceability or perfection.
Transaction Documents	▪ Transaction Documents to be based on Loan Market Association (LMA) standard form documents, adopted for the purposes of a Sharia'a-compliant Murabaha facility.

ANNEX C

ARCAPITA INVESTMENT HOLDINGS LIMITED

SUMMARY OF CONDITIONS PRECEDENT TO THE MURABAHA FACILITIES

This Summary of Conditions Precedent outlines certain of the conditions precedent to the Murabaha DIP Facility referred to in the Commitment Letter, of which this Annex C is a part. Certain capitalized terms used herein are defined in the Commitment Letter.

A. CONDITIONS PRECEDENT TO THE CLOSING DATE

1. Final DIP Order/Bankruptcy Matters.

(a) The Bankruptcy Court shall have entered, upon motion in form and substance reasonably satisfactory to the Investment Agent, on such prior notice as may be satisfactory to the Investment Agent, a final order in form and substance reasonably satisfactory to the Investment Agent on or before June 10, 2013, authorizing and approving the use of the Murabaha DIP Facility, all provisions thereof and the priorities and liens granted under Sections 364(c) of the Bankruptcy Code, as applicable (the "Final DIP Order"), which Final DIP Order shall, among other things: (i) modify the automatic stay to permit the creation and perfection of the Investment Agent's and Participants' liens on the Collateral; (ii) provide for the automatic vacation of such stay to permit the enforcement of the Investment Agent's and/or Participants' remedies under the Murabaha DIP Facility, including without limitation the enforcement, upon five (5) business days' prior written notice, of such remedies against the Collateral; (iii) prohibit the assertion of claims arising under Section 506(c) of the Bankruptcy Code against any or all of the Investment Agent and the Participants or the commencement of other actions adverse to the Investment Agent or any Participant or their respective rights and remedies under the Murabaha DIP Facility or the Final DIP Order; (iv) prohibit the incurrence of debt or granting of liens with priority equal to or greater than the Investment Agent's and Participants' liens under the Murabaha DIP Facility, other than in connection with the SCB Settlement Order; (v) (A) prohibit any granting or imposition of liens other than liens set forth in the Final DIP Order or otherwise reasonably acceptable to the Investment Agent and (B) terminate all liens upon the Collateral (except for permitted liens to be mutually agreed upon, including the liens confirmed in the SCB Settlement) upon payment of the amounts to be funded under the Murabaha DIP Facility; (vi) authorize and approve the Murabaha DIP Facility and the transactions contemplated hereby, including without limitation the granting of the superpriority claims, the first-priority security interests and liens (other than liens securing the SCB Facilities) upon the Collateral; (vii) authorize the payment by AIHL of all of the fees provided for herein and in any separate fee letter (including authorizing the entering into of any such fee letter) as administrative expense claims under Section 503(b)(1) of the Bankruptcy Code, including with respect to any indemnification obligations, whether or not any Transaction Documents are executed or any Facility is funded (which fees and indemnification obligations shall be secured by all of the priorities and liens granted pursuant to Section 364(c) of the Bankruptcy Code with respect to any and all other financing obligations under the Murabaha DIP Facility); (viii) find that the Participants are extending financing to the Debtors in good faith within the meaning of Section 364(e) of the Bankruptcy Code; and (ix) set forth the mechanics affecting the Murabaha DIP Facility as reasonably determined by AIHL and the Investment

Agent. The order should also authorize the entering into of the definitive documentation.

(b) Entry of an order (the "Cayman Order") in the Cayman Proceeding in form and substance reasonably satisfactory to the Investment Agent, in its sole discretion, on such prior notice as may be satisfactory to the Investment Agent, with respect to the Murabaha DIP Facility and such matters are to be determined by the Investment Agent, in its reasonable discretion.[9]

(c) The Debtors shall be in compliance in all respects with the Final DIP Order and Cayman Order.

(d) The definitive Transaction Documents shall have been entered into, and the Investment Agent, for the benefit of the Participants, shall have been granted perfected liens and pledges on the Collateral securing the Murabaha DIP Facility.

(e) No trustee or examiner shall have been appointed with respect to any of the Debtors or the Debtors' properties.

2. Financial Statements, Budgets and Reports. The Investment Agent shall have received the following financial information:

(a) the DIP Budget, which shall be in form and substance reasonably satisfactory to the Investment Agent;

(b) to the extent available, audited financial statements of the Company for the years 2009, 2010, 2011 and 2012; and

(c) such other information (financial or otherwise) as it may reasonably request.

3. Performance of Obligations. All costs, fees, expenses (including, without limitation, reasonable legal fees) and other compensation contemplated by the Commitment Letter and any separate fee letter payable to the Investment Agent or the Participants shall have been paid in full in cash to the extent due and the Debtors shall have complied with all of their other obligations under the Commitment Letter and any separate fee letter.

4. Sharia'a. A fatwa from Arcapita's Sharia'a Board approving the Transaction Documents shall have been issued in form and substance reasonably acceptable to the Investment Agent.

5. Credit Support. Any modification to the SCB Settlement Order and any adequate protection other than that contained in the SCB Settlement Order to any secured party shall be satisfactory to the Investment Agent.

6. Other Customary Conditions.

(a) The Investment Agent shall be satisfied that the Debtors have complied with the following conditions: (i) the delivery of legal opinions, corporate records and

[9] Note to draft: To be determined based on Cayman law advice.

documents from public officials, lien searches and officer's certificates; (ii) evidence of authority; (iii) obtaining material third party and governmental consents necessary in connection with the Murabaha DIP Facility, the related transactions and the financing thereof; (iv) absence of unstayed litigation affecting the Murabaha DIP Facility, the related transactions or the financing thereof; (v) evidence of insurance; and (vi) perfection of liens, pledges, and mortgages on the Collateral securing the Murabaha DIP Facility.

(b) The Investment Agent shall have received at least 10 days prior to the Closing Date (or such shorter period as the Investment Agent shall agree) all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the Patriot Act.

B. CONDITIONS TO MURABAHA EXIT FACILITY AVAILABILITY

The several obligations of the Participants to provide the Murabaha Exit Facility on the effective date of the Plan will be subject to the satisfaction of conditions for each Murabaha Contract set forth in the Term Sheet and the following:

(a) Entry of a Confirmation Order not later than two weeks prior to the DIP Termination Date.

(b) The occurrence of the effective date under the Plan and consummation of the Plan on or before the DIP Termination Date.

(c) Resolution of the Cayman Proceeding.

(d) The Investment Agent shall be satisfied in its reasonable judgment that (a) concurrently with the consummation of the Plan, all pre-existing indebtedness of the Debtors and their respective subsidiaries shall have been satisfied or otherwise treated in the manner specified in the Plan (to the extent applicable), and all liens and security interests related thereto, to the extent required by the Plan, shall have been terminated or released, in each case, on terms satisfactory to the Investment Agent, (b) the respective indebtedness of the Debtors and their respective subsidiaries and any liens securing same that are outstanding immediately after the consummation of the Plan shall not exceed the amount contemplated by the Plan (to the extent applicable), (c) no default under the Murabaha Exit Facility documentation shall have occurred and be continuing and (d) there shall not occur as a result of, and after giving effect to, the Murabaha Exit Facility and the other Plan effective date transactions, a default (or any event which with the giving of notice or lapse of time or both will be a default) under any of the reorganized Debtors or their respective subsidiaries' debt instruments and other material agreements.

(e) The Investment Agent shall be satisfied that the Purchaser has complied with the following closing conditions: (a) the delivery of legal opinions, corporate records and documents from public officials, officer's certificates; and evidence of authority; (b) accuracy of representations and warranties under the Murabaha Exit Facility, (c) perfection of liens, pledges, and mortgages on the collateral securing the Murabaha Exit Facility and (d) delivery of a solvency certificate from the chief

financial officer of Obligors in form and substance, and with supporting documentation, satisfactory to the Investment Agent.

(f) (i) No amendment, modification, supplement or waiver shall have been made to any or all of the Plan, the related Disclosure Statement and other solicitation materials, the Confirmation Order and all documents to be executed and/or delivered in connection with the implementation of the Plan, in each case, which adversely effects the Investment Agent or the Facilities without the prior written consent of the Investment Agent, (ii) the Bankruptcy Court shall have entered an order, in form and substance reasonably satisfactory to the Investment Agent (the "Confirmation Order"), confirming the Plan and approving the Plan-related solicitation procedures, and such order shall have become final and non-appealable, (iii) the Plan shall have become effective in accordance with its terms, and all conditions precedent to the effectiveness of the Plan shall have been satisfied or waived (to the extent such waiver would be adverse to the interest of the Investment Agent or the Participants with the prior consent of the Investment Agent), and (iv) the transactions contemplated by the Plan to occur on the effective date of the Plan shall have been consummated substantially contemporaneously with the provision of the Murabaha Exit Facility.

(g) A fatwa from New Arcapita Holdco 2's Sharia'a Board approving the Murabaha Exit Facility and all related transaction documents (in form and substance reasonably satisfactory to the Investment Agent) shall have been issued, and a pronouncement by a Sharia'a Advisor to the Investment Agent approving the Murabaha Exit Facility and all related transaction documents shall have been issued.

(h) All costs, fees, expenses (including, without limitation, reasonable legal fees) and other compensation contemplated by the Commitment Letter and any separate fee letter payable to the Investment Agent or the Participants shall have been paid in full in cash to the extent due and the Debtors shall have complied with all of their other obligations under the Commitment Letter and any separate fee letter.

(i) Unless the SCB Facilities are repaid in cash from the proceeds of the Murabaha Exit Facility, effectiveness of an intercreditor agreement among the Investment Agent, the Obligors and Standard Chartered Bank, in each case in form and substance reasonably acceptable to the Investment Agent.

(j) Effectiveness of agreements or other arrangements in form and substance reasonably acceptable to the Investment Agent authorizing the Investment Agent to exercise all rights of the Obligors with respect to the Cooperation Settlement Term Sheet and LT Caycos, including, without limitation, with respect to the disposition of Portfolio Companies, upon the occurrence and during the continuation of an Event of Default.[10]

(k) Subordination of all claims of AHIL, the Obligors or their affiliates against the Murabaha WCF Entities to the obligations under the Murabaha Exit Facility on terms in form and substance reasonably acceptable to the Investment Agent; provided that, for the avoidance of doubt, no claims against the Murabaha WCF

[10] Note to draft: Structure and drafting of "step in" rights subject to review of final documentation to be proposed by the Debtors.

Entities held by or participated to third parties that are not affiliates of Obligors shall be required to be subordinated.

(l) Subordination of all claims for Disposition Expenses (as defined in the Plan) of the Obligors and their affiliates to the obligations under the Murabaha Exit Facility on terms in form and substance reasonably acceptable to the Investment Agent, which shall permit payment of claims for Disposition Expenses prior to the occurrence of an Event of Default.

(m) The timing and amounts of any fees payable under the Management Services Agreement (as defined in the Plan) shall be materially consistent with the timing and amounts of such fees disclosed to Investment Agent in the draft Cooperation Settlement Term Sheet prior to the date hereof or otherwise in form and substance reasonably acceptable to the Investment Agent.

(n) The Investment Agent shall have received evidence that New Arcapita Topco and all of the Obligors shall not be regulated directly by the Central Bank of Bahrain, the Bahrain Ministry of Industry & Commerce or any other Bahraini governmental authority except to the extent that such regulation could not reasonably be expected to materially and adversely impact (i) the ability of the Obligors to perform under the Facilities Documents in respect of the Murabaha DIP Facility or (ii) the rights or remedies of the Investment Agent or the Participants under such documents.

ANNEX D

SUMMARY OF CURRENT MIDPOINT VALUE OF DEBTORS' INTERESTS

Aggregate current midpoint value of Debtors' interests

[redacted]

[redacted]

GOLDMAN SACHS INTERNATIONAL
PETERBOROUGH COURT
133 Fleet Street
London EC4A 2BB
United Kingdom

PERSONAL AND CONFIDENTIAL

May 2, 2013

Arcapita Bank B.S.C.(c)
c/o Bernard Douton
Rothschild
1251 Sixth Avenue, 51st Floor
New York, New York 10020

Fee Letter

Ladies and Gentlemen:

This Fee Letter sets forth certain fees payable by Arcapita Bank B.S.C.(c) (**"Arcapita Bank"**) in connection with the Facilities contemplated to be provided pursuant to the commitment letter dated the date hereof (the "**Commitment Letter**") among Goldman Sachs International ("**Goldman Sachs**") and Arcapita Bank. Terms defined in the Commitment Letter are used herein as defined therein. By accepting the Commitment Letter but subject to receipt of the Commitment Order, you agree to pay the fees set forth in this Fee Letter in accordance with the other terms and conditions set forth herein.

Murabaha DIP Facility and Murabaha Exit Facility

Arcapita Bank agrees to pay to Goldman Sachs:

- [redacted]
- [redacted]

[redacted]

[redacted]

[redacted]

Other

Whether or not any of the Final DIP Order or the Cayman Order is entered, or the Facilities are funded, Arcapita Bank also agrees to reimburse Goldman Sachs periodically upon demand for its reasonable out-of-pocket expenses, including expenses associated with syndication of the Facilities and the fees and disbursements of our attorneys and advisors, plus any sales, use or similar taxes (including additions to such taxes, if any) arising in connection with any matter referred to in the Commitment Letter or this Fee Letter. In addition, Arcapita Bank agrees to reimburse each Participant for any loss or expense that such Participant sustains or incurs as a consequence of making funds available, or making arrangements to fund, its contributions to a Cost Price in relation to a Murabaha Contract proposed on any date identified by Arcapita Bank to the Investment Agent as the expected Closing Date but not entered into on such expected date. Notwithstanding anything to the contrary herein, Goldman Sachs shall be permitted to allocate the fees payable to it hereunder for its own account to any Participants, prospective Participants or other participants or to any of its affiliates as it deems appropriate. [redacted]

All fees shall be payable in U.S. dollars in immediately available funds, free and clear of and without deduction for any and all present or future applicable taxes, levies, imposts, deductions, charges or withholdings, and all liabilities with respect thereto (with appropriate gross-up for withholding taxes).

You agree that, once paid, the fees or an part thereof payable hereunder shall not be refundable under any circumstances. All fees payable hereunder will be paid in immediately available funds and shall not be subject to reduction by way of setoff or counterclaim.

Arcapita Bank acknowledges that this Fee Letter is neither an expressed nor an implied commitment by Goldman Sachs to act in any capacity with respect to the Facilities or to enter into any Murabaha Contracts in connection therewith, which commitment, if any, is only set forth in the Commitment Letter.

Please note that this Fee Letter is exclusively for the information of the Board of Directors and senior management of Arcapita Bank and may not be disclosed to any third party or circulated or referred to publicly other than as provided in Section 7 (Confidentiality) of the Commitment Letter without our prior written consent. For the avoidance of doubt, and without limitation, this Fee Letter is subject to the terms of section 7 (Confidentiality) of the Commitment Letter.

This Fee Letter may be executed in any number of counterparts, each of which when executed will be an original, and all of which, when taken together, will constitute one agreement. Delivery of an executed counterpart of a signature page of this Fee Letter by facsimile transmission will be effective as delivery of a manually executed counterpart hereof.

In addition, please note that Goldman Sachs and its affiliates do not provide accounting, tax or legal advice.

This Fee Letter will be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law.

[Remainder of page intentionally left blank**]**

Please confirm that the foregoing is in accordance with your understanding by signing and returning to us the enclosed copy of this Fee Letter, which will become a binding agreement upon our receipt.

Very truly yours,

GOLDMAN SACHS INTERNATIONAL

By: _____
Authorized Signatory

Alisdair Fraser
Managing Director

ACCEPTED AND AGREED AS OF May __, 2013:

ARCAPITA BANK B.S.C.(c)

By: _____
Name:
Title:

Please confirm that the foregoing is in accordance with your understanding by signing and returning to us the enclosed copy of this Fee Letter, which will become a binding agreement upon our receipt.

Very truly yours,

GOLDMAN SACHS INTERNATIONAL

By: _____
Authorized Signatory

ACCEPTED AND AGREED AS OF
May __, 2013:

ARCAPITA BANK B.S.C.(c)

By: _____
Name: MOHAMMED CHOWDHURY
Title: EXECUTIVE DIRECTOR

NY\5754776

GOLDMAN SACHS INTERNATIONAL
Peterborough Court
133 Fleet Street
London EC4A 2BB
United Kingdom

PERSONAL AND CONFIDENTIAL

May 17, 2013

Arcapita Bank B.S.C.(c)
c/o Bernard Douton
Rothschild
1251 Sixth Avenue, 51st Floor
New York, New York 10020

Amendment Agreement

Ladies and Gentlemen:

Reference is made to that certain (i) Commitment Letter (as amended, restated, supplemented or otherwise modified from time to time, the "**Commitment Letter**"), dated May 2, 2013, between Goldman Sachs International (**"Goldman Sachs"**) and Arcapita Bank B.S.C.(c) ("**Arcapita Bank**") and (ii) Fee Letter (as amended, restated, supplemented or otherwise modified from time to time, the "**Fee Letter**"), dated May 2, 2013, between Goldman Sachs and Arcapita Bank. Capitalized terms used in this letter (this "**Amendment**") without definition are used as defined in the Commitment Letter.

The parties hereto agree to amend the Commitment Letter and Fee Letter as follows:

1. Section 9 of the Commitment Letter is hereby amended by replacing the reference therein to "May 15, 2013 at 5:00 p.m. New York time" with "May 17, 2013 at 5:00 p.m. New York time".

2. The "Murabaha Facilities" section of the Term Sheet is hereby amended and restated to read in its entirety as follows:

Murabaha Facilities	▪ A senior secured debtor-in-possession US Dollar term Murabaha facility (the "Murabaha DIP Facility") made available by the Investment Agent in an aggregate amount up to US$150,000,000 to repay the Existing DIP Facility and for working capital and general corporate purposes, and for the other purposes listed under "Use of Proceeds" below; provided, for the avoidance of doubt, the Purchaser may elect to reduce the undrawn committed amounts at any time, subject to prior notice and minimum reduction amounts to be agreed. ▪ Upon satisfaction of the conditions to conversion, a senior secured US Dollar term Murabaha facility (the "Murabaha Exit Facility") with (i) an incremental additional US$200,000,000 available thereunder so long as the SCB

	Facilities are repaid with the proceeds of the Murabaha Exit Facility or (ii) only if Arcapita Bank elects to downsize the Murabaha Exit Facility no later than May 20, 2013, an incremental additional US$100,000,000 available thereunder.

3. The "Administration Fee" section of the Term Sheet is hereby amended and restated to read in its entirety as follows:

Administration Fee	▪ An Administration Fee for the Facilities to be payable in the event that the Purchaser makes any voluntary prepayment or does not request the maximum Cost Price possible for a particular Murabaha Contract (in each case prior to the second anniversary of the Conversion Date). Such fee to be calculated as 1.0% of the relevant amount. This fee shall be separately documented in a Sharia'a-compliant manner, as an administration fee. This fee will be payable to the Investment Agent for the ratable account of each Participant (or such Participant's designees).

4. The "Margin" section of the Term Sheet is hereby amended and restated to read in its entirety as follows:

Margin	▪ 8.25% per annum payable in cash.

5. The "Termination Dates" section of the Term Sheet is hereby amended and restated to read in its entirety as follows:

Termination Dates	▪ The Murabaha DIP Facility will mature on July 31, 2013 (the "DIP Termination Date"); provided that, in the event that the entry of the Confirmation Order will be delayed beyond July 31, 2013, the DIP Termination Date may be extended at the Purchaser's option to September 30, 2013. ▪ The Murabaha Exit Facility will mature on the date which is the three-year anniversary of the Conversion Date (the "Exit Termination Date").

6. The first paragraph under the heading "Murabaha DIP Facility and Murabaha Exit Facility" in the Fee Letter is hereby amended and restated in its entirety to read as follows:

[redacted]

Notwithstanding the stated expiration of the Commitment Letter at 5:00 p.m. New York time on May 15, 2013, the parties hereto agree that the Commitment Letter remains in full force and effect as amended hereby, subject to expiration at 5:00 p.m. New York time on May 17, 2013 unless prior to such time the Commitment Order shall have been entered by the Bankruptcy Court. Except as expressly amended and modified hereby, the provisions of the Commitment Letter and Fee Letter are and shall remain in full force and effect in accordance with their terms and all references to the Commitment Letter and Fee Letter shall mean and include the Commitment Letter and Fee Letter, respectively, as amended hereby.

Please note that this Amendment, the Commitment Letter and the Fee Letter are exclusively for the information of Arcapita Bank and may not be disclosed by you to any third party or circulated or referred to publicly without our prior written consent except as expressly provided for in the Commitment Letter.

Arcapita Bank for itself and its affiliates agrees that any suit or proceeding arising in respect of this Amendment will be tried in the Bankruptcy Court, or in the event the Bankruptcy Court does not have or does not exercise jurisdiction, then in any Federal court of the United States of America sitting in the Borough of Manhattan or, if that court does not have subject matter jurisdiction, in any state court located in the City and County of New York, and Arcapita Bank hereby submits to the exclusive jurisdiction of, and to venue in, such court. Any right to trial by jury with respect to any action or proceeding arising in connection with or as a result of this Amendment or any matter referred to in this Amendment is hereby waived by the parties hereto. Arcapita Bank for itself and its affiliates 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 any of the parties hereto at the addresses above shall be effective service of process against such party for any suit, action or proceeding brought in any such court. This Amendment will be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of laws.

This Amendment may be executed in any number of counterparts, each of which when executed will be an original, and all of which, when taken together, will constitute one agreement. Delivery of an executed counterpart of a signature page of this Amendment by facsimile transmission or electronic transmission (in pdf format) will be effective as delivery of a manually executed counterpart hereof. This Amendment, the Commitment Letter and the Fee Letter are the only agreements that have been entered into among the parties hereto with respect to the Facilities and set forth the entire understanding of the parties with respect thereto and supersede any prior written or oral agreements among the parties hereto with respect to the Facilities.

[Remainder of page intentionally left blank**]**

Please confirm that the foregoing is in accordance with your understanding by signing and returning to Goldman Sachs the enclosed copy of this Amendment, whereupon this Amendment will become a binding agreement between us.

Very truly yours,

GOLDMAN SACHS INTERNATIONAL

By: _____
Authorized Signatory

ACCEPTED AND AGREED AS OF MAY __, 2013:

ARCAPITA BANK B.S.C.(c)

By:_____
Name:
Title:

Please confirm that the foregoing is in accordance with your understanding by signing and returning to Goldman Sachs the enclosed copy of this Amendment, whereupon this Amendment will become a binding agreement between us.

Very truly yours,

GOLDMAN SACHS INTERNATIONAL

By: _____
Authorized Signatory

ACCEPTED AND AGREED AS OF MAY 17, 2013:

ARCAPITA BANK B.S.C.(c)

By: _____
Name:
Title:

Exhibit C

Makuch Declaration

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

DECLARATION OF JOHN MAKUCH IN SUPPORT OF DEBTORS' MOTION FOR ORDER PURSUANT TO 11 U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) AND 552 AND BANKRUPTCY RULES 4001 AND 6004 AUTHORIZING THE DEBTORS TO OBTAIN REPLACEMENT POSTPETITION FINANCING TO REPAY EXISTING POSTPETITION FINANCING

I, John Makuch, 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 above-captioned chapter 11 cases (the "***Chapter 11 Cases***"). My business address is 3424 Peachtree Road NE, Suite 1500, Atlanta, Georgia 30326. I am one of the A&M professionals in charge of A&M's engagement by Arcapita Bank B.S.C.(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 one of the people 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 Debtors' motion (the "***DIP Motion***")[1] for entry of an order pursuant to 11

[1] All capitalized terms used but otherwise not defined herein shall have the meanings ascribed to them in the DIP Motion.

U.S.C. §§ 105, 362, 363(b)(1), 363(m), 364(c)(1), 364(c)(2), 364(c)(3), 364(e) and 552 and Bankruptcy Rule 4001 authorizing the Debtors to obtain replacement post-petition financing. The purpose of this Declaration is to summarize the Debtors' need for additional cash in order to pay off their existing obligations under the Fortress Facility entered into on December 14, 2012 (the "***Fortress Obligations***") and successfully consummate their proposed chapter 11 plan, filed on April 25, 2013 (the "***Plan***"). I have reviewed the DIP Motion and the DIP Agreement and, as a result, have a good understanding of the DIP Transaction structure.

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

STATEMENT

I. A&M's Budget Work during the Chapter 11 Cases

4. I and A&M professionals supervised by me have developed an in-depth understanding of the Debtors' revenues and expenditures in connection with our work on the Chapter 11 Cases. Previously during the Chapter 11 Cases, I submitted a declaration in support of the Fortress Facility in December of 2012 (the "***First DIP Declaration***") [Dkt. No. 690 Exh. D] outlining A&M's role in the budget process and creation of the interim cash management budgets periodically filed with the Court (each, an "***Interim Cash Management Budget***"). Definitions and descriptions of the Interim Cash Management Budgets, as well as a detailed account of my and A&M's involvement in their preparation found in ¶¶ 5-8 of the First DIP Declaration, are incorporated herein.

5. Interim Cash Management Budget: On April 26, 2013 the Debtors filed their Fifteenth Interim Cash Management Motion and on April 29, 2013 filed a revised Proposed Fifteenth Interim Cash Management Motion. I reviewed and approved the fifteenth Interim Cash Management Budget (the "***Cash Management Budget***") prior to its being filed with the Court.

II. The Debtors' Current Liquidity Position

6. The Interim Cash Management Budgets have evidenced the substantial costs the Debtors have incurred and will continue to incur before emerging from the Chapter 11 Cases. Based on current expense estimates, absent the relief requested in the DIP Motion, I now forecast that the Debtors will have less than $900,000 in available liquidity as of June 22, 2013. Expected go forward costs through confirmation are reflected in the DIP Budget filed with the DIP Motion. I approved that budget.

III. The Need for Additional Liquidity

7. In my opinion, current cash and expected future cash receipts are insufficient for the Debtors to operate in chapter 11 and consummate the Plan.

8. The Debtors' Immediate Need for Cash. The Debtors, with counsel from A&M professionals, have determined that the Debtors require up to $175 million immediately in order to satisfy their short-term operating needs and to repay outstanding Fortress Obligations. I support this assessment as well. I understand that the Fortress Facility matures on June 14, 2013. I also understand that the Debtors have prepaid $45 million of the Fortress Facility, primarily with asset sale proceeds and management fees, as required under the Fortress DIP Agreement's mandatory prepayment provisions. While the Fortress Facility permits an extension, it does not permit additional borrowing. As a result of the Debtors' decreased liquidity and the impending maturation date of the Fortress Facility, I believe the up to $175 million available under the DIP

Transaction is required to repay the Fortress Facility and fund the Debtors through consummation of the Plan.

9. Consequently, based upon my assessment of the Debtors' liquidity position and financing needs and upon my review of the DIP Transaction, it is my opinion that:

i. the Debtors require additional financing in order to continue to fund Arcapita Group operations and fund emergence;

ii. as a result of the foregoing, the relief requested in the DIP 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 27th day of May, 2013.

/s/ John Makuch
John Makuch,
Managing Director,
Alvarez & Marsal North America, LLC