

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

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IN RE:	:
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	Chapter 11
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ARCAPITA BANK B.S.C.(c), et al.,	:
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	Case No. 12-11076 (SHL)
	:
Debtors.	:
	:
	Jointly Administered
	:
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**DEBTORS' APPLICATION FOR AN ORDER APPROVING THE
EMPLOYMENT AND RETENTION OF KPMG LLP (US) AS TAX CONSULTANTS
TO DEBTORS AND DEBTORS IN POSSESSION PURSUANT
TO SECTION 327(a) OF THE BANKRUPTCY CODE**

Arcapita Bank B.S.C.(c) ("*Arcapita*") and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "*Debtors*" and each, a "*Debtor*") hereby submit this application (the "*Application*") for entry of an order, substantially in the form annexed hereto as Exhibit A (the "*Proposed Order*") pursuant to section 327(a) of title 11 of the United States Code (the "*Bankruptcy Code*"), rule 2014 of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*"), and rule 2014-1 of the local rules of this Court (the "*Local Rules*") authorizing the employment and retention of KPMG LLP ("*KPMG-US*") to serve as tax consultants to the Debtors, *nunc pro tunc* to the date of filing of the Chapter 11 Cases (as defined below). In support of the Application, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

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

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

BACKGROUND

3. On March 19, 2012 (the “*Petition Date*”), each of the Debtors commenced cases (the “*Chapter 11 Cases*”) under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

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

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

6. The Arcapita Group has approximately \$7 billion in assets currently under management. As of the Petition Date, on a consolidated basis, the Arcapita Group owned assets

valued at approximately \$3.06 billion¹ and had liabilities of approximately \$2.55 billion.

Approximately \$1.1 billion of the Debtors' prepetition liabilities are comprised of that certain murabaha, Shari'ah-compliant syndicated facility, issued on March 28, 2007, which matured on March 28, 2012.

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

RELIEF REQUESTED

8. By this Application, the Debtors seek entry of an Order approving the employment and retention of KPMG-US as the Debtors' tax consultants pursuant to section 327(a) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, to perform the services set forth more fully herein, *nunc pro tunc* to the Petition Date.

THE DEBTORS' RETENTION OF KPMG-US

9. The Debtors have selected KPMG-US as their tax consultants because of the firm's diverse experience and extensive knowledge in the fields of accounting, taxation, and operational controls for large sophisticated companies both in chapter 11, as well as outside of chapter 11.

10. KPMG-US has a substantial amount of experience providing services to Debtors and other entities in numerous chapter 11 cases of similar size and complexity to the Debtors' Chapter 11 Cases.

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

11. The Debtors have employed KPMG-US for approximately twelve years. By virtue of its prior engagements KPMG-US is familiar with the books, records, financial information and other data maintained by the Debtors and is qualified to continue to provide tax consulting services to the Debtors. In providing prepetition services to the Debtors, KPMG-US professionals have worked closely with the Debtors' management.

SCOPE OF SERVICES TO BE PROVIDED

12. The Debtors' engagement letters (collectively the "*Engagement Letter*") with KPMG-US are annexed hereto as Exhibit B, the terms of which shall govern the Debtors' retention of KPMG-US except as explicitly set forth herein or in any order granting this Application.

13. KPMG-US will coordinate closely with the other retained professionals to avoid the duplication of services. As such, KPMG-US will be able to perform the requisite services in an efficient and cost-effective manner.

14. KPMG-US will provide tax consulting services to the Debtors in the course of these Chapter 11 cases, including, but not limited to the following:

- a) Reviewing and assisting in the preparation and filing of federal and state and local corporate tax returns and supporting schedules, including preliminary engagement planning activities related to the tax returns for the immediately succeeding tax year;
- b) Determining the corporations' quarterly estimated tax payments for the 2012 tax year;
- c) Reviewing and assisting in the preparation of amended federal and state tax returns on U.S. Senior Living Funding, Inc. and USSLF Subco, Inc. for the year ended December 31, 2009;
- d) Consulting on tax matters that may arise for which the Debtors seek our

advice, both written and oral; and

e) Performing such functions as requested by the Debtors or their counsel to assist the Debtors in its business and reorganization.

KPMG-US'S DISINTERESTEDNESS

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

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

17. In addition, as set forth in the Grande Declaration, if any new material facts or relationships are discovered or arise, KPMG-US will provide the Court with a supplemental declaration.

TERMS OF RETENTION

18. Subject to approval by the Court, the Debtors propose to employ and retain KPMG-US to serve as the Debtors' tax consultants on the terms and conditions set forth in the Engagement Letter.

19. Compensation. In accordance with the terms of the Engagement Letter, KPMG-US's requested compensation for professional services rendered to the Debtors will be based upon the hours actually expended by each assigned staff member at each staff member's hourly billing rate. The Debtors have agreed to compensate KPMG-US for professional services

rendered at its normal and customary hourly rates, subject to the reductions set forth below. In the normal course of KPMG-US's business, the hourly rates are subject to periodic increase. KPMG-US will provide the Debtors, the Creditors' Committee and the U.S. Trustee with notice of any such increase in fees. To the extent such hourly rates are increased, KPMG-US requests that, with respect to the work to be performed after such increase, the rates listed below be amended to reflect the increase. The hourly rates for tax consulting services to be rendered by KPMG-US and applicable herein are as follows:

Tax Consulting Services	Discounted Rate
Partners	\$620 - \$860
Managing Directors	\$630 - \$720
Senior Managers/Directors	\$508 - \$680
Managers	\$403 - \$492
Senior Associates	\$319 - \$364
Associates	\$245 - \$280

20. KPMG-US also will seek reimbursement for reasonable, necessary expenses incurred, which shall include meals, lodging, travel, photocopying, delivery service, postage, vendor charges and other out-of-pocket expenses incurred in providing professional services. All fees and expenses will be billed monthly and payable as and to the extent provided in any applicable order of the Bankruptcy Court governing the engagement of KPMG-US and the payment of its fees and expenses.

FEES

21. The Debtors understand that KPMG-US intends to apply to the Court for allowance of compensation and reimbursement of expenses (including certain reasonable

attorneys' fees and expenses, if any) for its tax consulting services in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, corresponding Local Rules, orders of this Court and guidelines established by the United States Trustee. KPMG-US will maintain records (in one-tenth of an hour increments) describing the services rendered and setting forth the actual and necessary costs and expenses incurred in connection with the rendering services in these Chapter 11 Cases. KPMG-US does not seek any contingent, incentive compensation.

22. The Engagement Letter contains standard indemnification language with respect to KPMG-US's services including, without limitation, an agreement by the Debtors to indemnify KPMG-US and their affiliates and their respective partners, principals, employees, and agents, except as provided in the Order attached hereto.

BASIS FOR RELIEF REQUESTED

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

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

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

11 U.S.C. § 101(14).

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

NOTICE

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

NO PRIOR REQUEST

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

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

Dated: New York, New York
May 2, 2012

Respectfully submitted,

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)

Janet M. Weiss (JW-5460)

Matthew K. Kelsey (MK-3137)

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue

New York, New York 10166-0193

Telephone: (212) 351-4000

Facsimile: (212) 351-4035

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

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

GIBSON, DUNN & CRUTCHER LLP

Michael A. Rosenthal (MR-7006)
Janet M. Weiss (JW-5460)
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New York, New York 10166-0193
Telephone: (212) 351-4000
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Proposed Attorneys for the Debtors and Debtors in Possession

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

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

**NOTICE OF DEBTORS' APPLICATION PURSUANT TO SECTION 327(a)
OF THE BANKRUPTCY CODE FOR AN ORDER AUTHORIZING THE DEBTORS
TO RETAIN AND EMPLOY KPMG LLP (US) AS TAX CONSULTANTS TO THE
DEBTORS NUNC PRO TUNC TO THE PETITION DATE**

PLEASE TAKE NOTICE that on May 2, 2012, the above-captioned debtors and debtors in possession (the "**Debtors**") filed the annexed *Debtors' Application Pursuant to Section 327(a) of the Bankruptcy Code for an Order Authorizing the Debtors to Retain and Employ KPMG LLP (US) as Tax Consultants to the Debtors Nunc Pro Tunc to the Petition Date* (the "**Application**").

PLEASE TAKE FURTHER NOTICE that a hearing (the "**Hearing**") to consider the Application will take place before the Honorable Sean H. Lane, United States Bankruptcy Judge, in Room 701 of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408 (the "**Bankruptcy Court**") on **May 31, 2012 at 2:00 p.m. (prevailing U.S. Eastern Time)**, or as soon thereafter as counsel may be heard.

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

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

Dated: New York, New York
May 2, 2012

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

GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
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**PROPOSED ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION**

EXHIBIT A
Proposed Order

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

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

**ORDER AUTHORIZING THE DEBTORS AND DEBTORS-IN-POSSESSION
TO RETAIN AND EMPLOY KPMG LLP (US) AS TAX CONSULTANTS
NUNC PRO TUNC TO THE PETITION DATE**

Upon the application (the “*Application*”) of the above-captioned Debtors and Debtors-in-possession (collectively, the “*Debtors*”), for the entry of an order pursuant to section 327(a) and of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “*Bankruptcy Code*”), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of New York (the “*Local Rules*”), authorizing them to employ and retain KPMG LLP (“*KPMG-US*”) as tax consultants to the Debtors in the above-captioned chapter 11 cases *nunc pro tunc* to the Petition Date;¹ and upon the Declaration of Mary C. Grande, a CPA and partner at KPMG-US (the “*Declaration*”) in support thereof; and the Court being satisfied based on the representations made in the Application and in the Declaration that KPMG-US represents no interest adverse to the Debtors’ estates with respect to the matters upon which they are to be engaged, that they are disinterested persons as that term is defined under section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy

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

Code, and that their employment is necessary and in the best interests of the Debtors' estates; and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Application having been provided; and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefore, it is hereby:

ORDERED that the Application is granted to the extent set forth herein; and it is further

ORDERED that in accordance with section 327(a) of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rule 2014, the Debtors are authorized to employ and retain KPMG-US as tax consultants to the Debtors on the terms set forth in the Application and the Engagement Letter, as modified by this Order; and it is further

ORDERED that all requests of KPMG-US for payment of indemnity pursuant to the Engagement Letter shall be made by means of an application and shall be subject to review by the Court to ensure that the payment of such indemnity conforms to the terms of the Engagement Letter and is reasonable based upon the circumstances of the litigation or settlement in respect of which indemnity is sought; and it is further

ORDERED that KPMG-US shall be compensated in accordance with the Engagement Letter, sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, this Order and any other applicable orders of this Court; and it is further

ORDERED that the terms and conditions of the Engagement Letters, as modified by this Order, are approved and subject to the procedures set forth in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the U.S. Trustee Guidelines and any other applicable orders of this Court; and it is further

ORDERED that notice shall be provided by KPMG-US to the Debtors, the U.S. Trustee and the Committee prior to any increases in the rates set forth in the Application and such notice must be filed with the Court; and it is further

ORDERED that to the extent the Debtors and KPMG-US enter into any additional engagement letter(s), the Debtors will file such engagement letter(s) with the Bankruptcy Court and serve such engagement letter(s) upon the United States Trustee and counsel to the Official Committee of Unsecured Creditors. To the extent any of such parties object, within 14 days of such new engagement letter(s) being served, to the additional services to be provided by KPMG-US, the Debtors will promptly schedule a hearing before the Court. All additional services will be subject to the provisions of this Order; and it is further

ORDERED that the following terms apply during the pendency of the Debtors' Chapter 11 Cases:

- (a) KPMG-US shall not be entitled to indemnification, contribution or reimbursement for services other than those described in the Engagement Letters and the Application, unless such services and indemnification therefor are approved by the Court; provided, that to the extent additional engagement letter(s) are filed with the Court and no parties object to such engagement letter(s) in accordance with the procedures described in the immediately preceding Ordered paragraph, such engagement letter(s) shall be deemed approved by the Court;
- (b) The Debtors shall have no obligation to indemnify KPMG-US, or provide contribution or reimbursement to KPMG-US, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from KPMG-US's bad faith, self-dealing, breach of fiduciary duty (if any such duty exists), gross negligence or willful misconduct; or (ii) judicially determined (the determination having become final), based on a breach of KPMG-US's contractual obligations to the Debtor; or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) immediately above, but determined by the Court, after notice and a hearing to be a claim or expense for which KPMG-US should not receive indemnity, contribution or reimbursement under the terms of KPMG-US's retention by the Debtors pursuant to the terms of the Engagement Letters and Application,

as modified by this Order; and

- (c) If, before the earlier of: (i) the entry of an order confirming a chapter 11 plan in this case (that order having become a final order no longer subject to appeal); and (ii) the entry of an order closing these chapter 11 cases, KPMG-US believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Engagement Letter (as modified by this Order) and Application, including without limitation the advancement of defense costs, KPMG-US must file an application therefor in this Court. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by KPMG-US for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KPMG-US. All parties in interest shall retain the right to object to any demand by KPMG-US for indemnification, contribution or reimbursement; and it is further

ORDERED that the Debtors shall comply with the notice requirement set forth in paragraph 4(c) of KPMG-US's Standard Terms and Conditions for Advisory and Tax Services (the "*Standard Terms and Conditions*"), including providing written notice to KPMG-US prior to disseminating or advancing any of KPMG-US's advice, recommendations, information, or work product to third parties; and it is further

ORDERED that during the pendency of the Chapter 11 Cases, paragraph 6 of the Standard Terms and Conditions is deleted; and it is further

ORDERED that notwithstanding anything in the Application or the Engagement Letter to the contrary, prior to the earlier of (i) entry of an order confirming a chapter 11 plan in this case (that order having become a final order no longer subject to appeal); and (ii) the entry of an order closing these chapter 11 cases, this Court shall retain exclusive jurisdiction over all matters arising out of and/or pertaining to KPMG-US's engagement; and it is further

ORDERED that during the pendency of the Chapter 11 Cases, this Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the

implementation of this Order.

Dated: _____, 2012
New York, New York

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B
Engagement Letters



KPMG LLP
Stamford Square
3001 Summer Street
Stamford, CT 06905-4317

Telephone +1 203 356 9800
Fax +1 203 967 3503
Internet www.us.kpmg.com

January 9, 2012

PRIVATE

Mr. Laine Kenan
Arcapita Bank B.S.C. (c)
c/o Arcapita Inc.
75 Fourteenth Street, 24th Floor
Atlanta, GA 30309

Dear Laine:

We are pleased you have engaged KPMG LLP (KPMG) to provide tax compliance and tax consulting services for Arcapita Bank B.S.C. (c) and its affiliates (collectively referred to as "Arcapita"). This letter confirms the scope and related terms of your engagement of KPMG.

I. Tax Compliance Services

We will perform the following services:

1. We will prepare federal and state and local corporate tax returns and supporting schedules for Arcapita's 2011 tax year. Our records indicate that we should prepare the following returns for the listed entities as detailed in Exhibit A.
2. We will determine the corporation's quarterly estimated tax payments for the 2012 tax year.

This engagement letter is also intended to apply to preliminary engagement planning activities related to the tax returns specified above for the immediately succeeding tax year.

If you return to us a signed copy of this letter, we will automatically prepare, for your filing, a request for extension of time to file the applicable returns.

We will prepare these returns from the information you submit. We will not audit or independently verify the data you submit. However, we may ask for clarification of some of the information. Our engagement cannot be relied on to uncover errors, omissions, or irregularities, should any exist in the underlying information incorporated in the tax returns. However, we will inform you of any such matters that come to our attention. Because management has ultimate responsibility for the tax returns, please have the appropriate corporate officials review the returns before an officer signs and files the returns.

Please note that if Arcapita had a taxable presence (e.g., an employee within the jurisdiction or any tangible property owned or rented within the jurisdiction) in a jurisdiction not listed in Exhibit A, it may be subject to income or franchise tax in that jurisdiction, depending upon the



Mr. Laine Kenan
Arcapita Bank B.S.C (c)
January 9, 2012
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particular facts. It is Arcapita's obligation to notify KPMG if assistance is needed to determine whether Arcapita is liable for income or franchise tax or has a filing requirement in any jurisdiction not listed in Exhibit A.

All returns are subject to examination by the taxing authorities. In the event of an examination, Arcapita may be requested to produce documents, records, or other evidence to substantiate the items of income and deduction shown on the tax returns. In preparing your returns, we rely on your representations that you understand and have complied with applicable documentation requirements for Arcapita's income, expenses, deductions, and credits. If an examination occurs, and if you and we agree to have KPMG assist or represent Arcapita in the examination, any such additional services and the fee therefore would be set forth in a separate engagement letter.

Tax Return Standards

KPMG applies elevated standards in preparing tax returns. Under these standards, we must be able to determine that a return position is at least "more likely than not" to be upheld (i.e., has a greater than 50% likelihood of success if challenged by the taxing authorities). If a return position relates to a transaction that is a "principal purpose transaction" or a transaction that the IRS or a state tax authority has identified as a "listed transaction," we must arrive at a "should" confidence level (i.e., approximately a 70% or greater likelihood of success if challenged by the taxing authorities) with respect to the position. In determining whether a return position meets the appropriate standard, we will not take into account the possibility that a tax return will not be audited, that an issue will not be raised on audit, or that an issue will be settled. We will inform you as soon as possible if, during our preparation, we determine circumstances exist that prevent us from completing the tax return under these standards. We will not render any advice with respect to a federal or state "listed transaction" or any transaction that is substantially similar to a federal or state "listed transaction."

Electronic Filing

KPMG will electronically file the returns we prepare for you that are subject to tax authority mandates. The filing instructions that KPMG provides to you will indicate the returns that KPMG has electronically filed on your behalf, if any, and will provide instructions and filing copies for your paper filing of the returns that were not electronically filed.

II. Tax Consulting Services

This engagement letter also covers tax consulting matters that may arise for which you seek our advice, both written and oral, and that are not the subject of a separate engagement letter. We will apply the elevated standards described in the "Tax Return Standards" section of this letter with respect to any such advice which would cause KPMG to be considered a tax return preparer under Treasury Regulation §301.7701-15. KPMG will not render any advice with respect to a federal or state "listed transaction" or any transaction that is substantially similar to a federal or state "listed transaction."



Mr. Laine Kenan
Arcapita Bank B.S.C (c)
January 9, 2012
Page 3 of 10

If matters exceed the scope of this engagement letter, we will issue a separate engagement letter or clarifying addendum to confirm the scope and related terms. Furthermore, a separate engagement letter will be issued for each discrete tax consulting project not specified in this engagement letter (e.g., transfer pricing study, corporate acquisition or disposition, etc.) and for tax controversy representation.

When, in the course of providing general tax consulting services, it is determined that the service would exceed the scope of this letter, preliminary engagement planning activities undertaken prior to the issuance of a separate engagement letter for the discrete tax consulting project are intended to be covered by this engagement letter.

To be of greatest assistance to Arcapita, we should be advised **in advance** of proposed transactions.

We do not anticipate that the written tax advice provided under this engagement letter will be a Covered Opinion as defined in §10.35 of Circular 230 (Covered Opinion). Therefore, all the written tax advice provided under this engagement letter will contain the following legend:

ANY TAX ADVICE IN THIS COMMUNICATION IS NOT INTENDED OR WRITTEN BY KPMG TO BE USED, AND CANNOT BE USED, BY A CLIENT OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF (i) AVOIDING PENALTIES THAT MAY BE IMPOSED ON ANY TAXPAYER OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY MATTERS ADDRESSED HEREIN.

However, if our services will rise to the level of a Covered Opinion, we will issue a separate engagement letter for the issuance of a Covered Opinion.

Fees

I. Tax Compliance Services

Our fee for tax compliance services will be based on the actual time incurred to complete the work at 70% of our standard hourly rates for the individuals involved in providing the services. We will also bill you an administrative recovery fee equal to 11.5% of our undiscounted standard hourly rates for the time incurred in completing this engagement.

We will endeavor to notify you if we encounter any circumstances that warrant additional time or expense. If such matters exceed the scope of this engagement letter, we will issue an addendum or separate engagement letters to confirm the scope and related terms of any additional engagements.



Mr. Laine Kenan
Arcapita Bank B.S.C (c)
January 9, 2012
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Our fees for tax compliance services will be billed as work is performed.

II. Tax Consulting Services

Our fees for any tax consulting services under this engagement will be based on the actual time incurred to complete the work at 80% of our standard hourly rates for the individuals involved in providing the services. We will also bill you an administrative recovery fee equal to 11.5% of our undiscounted standard hourly rates for the time incurred in completing this engagement.

Our fees for tax consulting services will be billed as incurred.

Consent to Disclose and Use Tax Return Information

Federal law prohibits our disclosing, without your consent, your tax return information to third parties (such as one or more KPMG International Member Firms or to KPMG LLP's India-based returns processing center, the Q-Center) or our use of that information for purposes other than the preparation of your return. In executing this engagement letter, you authorize KPMG LLP to disclose your tax return information the Q-Center or such other third party service providers as you may request or as may be required for purposes of completing the services under this engagement letter (including, but not limited to, the processing of your return). Your consent will be valid until such time as we have completed the services described in, and any services that are ancillary to, those described in this engagement letter.

* * * * *

The attached Standard Terms and Conditions for Advisory and Tax Services (Standard Terms and Conditions) are made a part of this engagement letter, except as modified hereunder. In accordance with the terms of this engagement letter, the following modifications to the attached Standard Terms and Conditions are agreed to:

Section 6: Limitation of Damages, the first sentence is modified in its entirety to read as follows: "Except for the respective indemnification obligations of Client and KPMG set forth herein, the liability of the Client Parties and the KPMG Parties to one another, on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Engagement Letter shall be limited to two (2) times the fees paid or owing to KPMG under the Engagement Letter."

Further, Section 6 is modified to exclude any limitation on damages resulting from KPMG's willful misconduct.



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Please sign the enclosed copy of this letter to confirm our agreement and return it to us, preferably within 30 days.

Unless otherwise terminated, modified, or superseded in writing, this engagement letter is intended to apply for a period of 15 months from the date of signing by the client. In addition, effective as of the date of signing, this engagement letter supersedes any and all previously issued engagement letters pertaining to the services described above.

If you have any questions, please call me.

Very truly yours,

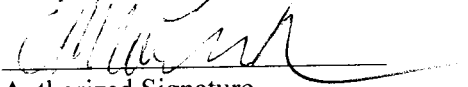
KPMG LLP


Mary C. Grande
Partner

Enclosure:
Standard Terms and Conditions for Advisory and Tax Services

ACCEPTED

Arcapita Bank B.S.C (c),


Authorized Signature

Executive Director
Title

January 19, 2012
Date



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December 15, 2011
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EXHIBIT A

Orlando Conversion Property, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 Florida Form F-1120: Florida Corporation Income and Emergency Excise Tax Return

Orlando Development Property, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 Florida Form F-1120: Florida Corporation Income and Emergency Excise Tax Return

Orlando Residential Holding Company, LLC

- 2011 Federal Form 1065: U.S. Return of Partnership Income
- 2011 Florida Form F-1065: Florida Partnership Return of Income

Longwood Holding Company, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)



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La Mesa Holding Company, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 California Form 100: California Franchise/Income Tax Return

Chicago Condo Funding Corp.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 Illinois Form IL-1120: Illinois Corporation Income and Replacement Tax Return

U.S. Senior Living Funding, Inc. & Subs

- 2011 Federal Form 1120: Consolidated U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 Arizona Form 120: Combined Arizona Corporation Income Tax Return
- 2011 California Form 100W: Combined California Franchise/Income Tax Return- Water's-Edge Filers
- 2011 Florida Form F-1120: Consolidated Florida Corporation Income and Emergency Excise Tax Return
- 2011 Illinois Form IL-1120: Combined Illinois Corporation Income and Replacement Tax Return
- 2011 New York Form CT-3-A: New York General Business Corp. Combined Franchise Tax Return
- 2011 New York Form CT-3M/4M: Combined New York State General Corporation MTA Surcharge Return



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- 2011 Oklahoma Form 512: Combined Oklahoma Corporation Income Tax Return
- 2011 Virginia Form 500: Combined Virginia Corporation Income Tax Return

U.S. Senior Living Funding, Inc.

- 2011 Missouri Corporation Income Tax Return
- 2011 North Carolina Form CD-405: North Carolina Corporation Tax Return
- 2011 Oklahoma Form BT-190: Oklahoma Annual Business Activity Tax Return

USSLF Subco., Inc.

- 2011 Missouri Corporation Income Tax Return
- 2011 North Carolina Form CD-405: North Carolina Corporation Tax Return
- 2011 Oklahoma Form BT-190: Oklahoma Annual Business Activity Tax Return

U.S. Senior Living, LLC.

- 2011 California Form 568: California Limited Liability Company Return of Income

Outlet Center Funding, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 California Form 100: California Franchise/Income Tax Return
- 2011 Georgia Form 600: Georgia Corporation Income Tax and Net Worth Tax Return
- 2011 Minnesota Form M-4: Minnesota Corporation Franchise Tax
- 2011 Missouri Corporation Income Tax Return



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Waverly Properties Holding Company, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 New York Form CT-3: New York General Business Corporation Franchise Tax Return
- 2011 New York Form CT-3M/4M: New York State General Corporation MTA Surcharge Return
- 2011 New York City Form NYC-3L: New York City General Corporation Tax Return

Palatine Properties Holding Company, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 Illinois Form IL-1120: Illinois Corporation Income and Replacement Tax Return

OSP Holding Company, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 Colorado Form 112: Colorado State C Corporation Income Tax Return

Aspen Valley Ranch Holding Company, Inc.

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return
- 2011 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)



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- 2011 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2011 Colorado Form 112: Colorado State C Corporation Income Tax Return

Pond Bay Holding Company Limited

- 2011 Federal Form 1120: U.S. Corporation Income Tax Return



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Standard Terms and Conditions for Advisory and Tax Services

1. Services; Client Responsibilities.

- (a) References herein to Client shall refer to the addressee of the Proposal or Engagement Letter to which these Standard Terms and Conditions are attached or incorporated (the "Engagement Letter") and references herein to KPMG shall refer to KPMG LLP, a Delaware registered limited liability partnership and the United States member firm of the KPMG network of independent firms (the "KPMG Network"). Client, its parent company and their affiliates, and their respective directors, officers, employees, and agents are collectively referred to herein as the "Client Parties." KPMG, the other member firms of the KPMG Network and firms and entities controlled by, or under common control with, one or more such member firms (collectively, the "Member Firms"), and their affiliates, and their respective partners, principals, employees, and agents are collectively referred to herein as the "KPMG Parties."
 - (b) It is understood and agreed that KPMG's services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, Client. KPMG will not perform management functions or make management decisions for Client.
 - (c) If KPMG audits the financial statements of Client or provides any other attestation services to Client, the rules of the American Institute of Certified Public Accountants ("AICPA") require Client to agree to the following provisions of this Paragraph 1(c). In connection with KPMG's provision of services under the Engagement Letter, Client agrees that Client, and not KPMG, shall perform the following functions: (i) make all management decisions and perform all management functions; (ii) designate an individual who possesses suitable skill, knowledge and experience, preferably within senior management, to oversee such services, and to evaluate the adequacy and results of such services; (iii) accept responsibility for the results of such services; and (iv) establish and maintain internal controls over the processes with which such services are concerned, including monitoring on-going activities.
 - (d) Subsequent to the completion of this engagement, KPMG will not update its advice, recommendations or work product for changes or modifications to the law and regulations, or to the judicial and administrative interpretations thereof, or for subsequent events or transactions, unless Client separately engages KPMG to do so in writing after such changes or modifications, interpretations, events or transactions.
- 2. Tax on Services.** All fees, charges and other amounts payable to KPMG under the Engagement Letter do not include any sales, use, excise, value added or other applicable taxes, tariffs or duties, payment of which shall be Client's sole responsibility, excluding any applicable taxes based on KPMG's net income or taxes arising from the employment or independent contractor relationship between KPMG and its personnel.
- 3. Termination.** Either party may terminate the Engagement Letter at any time by giving written notice to the other party not less than 30 calendar days before the effective date of termination.

4. Ownership and Use of Deliverables.

- (a) KPMG has created, acquired, owns or otherwise has rights in, and may, in connection with the performance of services under the Engagement Letter, use, provide, modify, create, acquire or otherwise obtain rights in, (i) concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and software and (ii) the general elements of style, design, art work and graphics and content of general applicability included in KPMG's Deliverables (as defined below) or work product not specific to Client or the services under the engagement letter (collectively, the "KPMG Property"). KPMG retains all ownership and use rights in the KPMG Property. Client shall acquire no rights or interest in the KPMG Property, except as expressly provided in the next paragraph. KPMG acknowledges that KPMG Property shall not include any of Client's confidential information or tangible or intangible property, and KPMG shall have no ownership rights in such property.
- (b) Except for KPMG Property, and upon full and final payment to KPMG under the Engagement Letter, the tangible items specified as deliverables or work product in the Engagement Letter including any intellectual property rights appurtenant thereto (the "Deliverables") will become the property of Client. If any KPMG Property is contained in any of the Deliverables, KPMG hereby grants Client a royalty-free, paid-up, non-exclusive, perpetual license to use such KPMG Property in connection with Client's use of the Deliverables. Client acknowledges and agrees that KPMG shall have the right to retain for its files copies of each of the Deliverables, subject to the provisions of Paragraph 11 below.
- (c) Client acknowledges and agrees that any advice, recommendations, information, Deliverables or other work product provided to Client by KPMG in connection with the services under the Engagement Letter is intended for Client's sole benefit and KPMG does not authorize any other party to rely upon such advice, recommendations, information, Deliverables or other work product and any such reliance shall be at such party's sole risk. Client agrees that if it makes such advice, recommendations, information or work product available to any third party other than as expressly permitted by the Engagement Letter the provisions of Paragraph 8(b) shall apply unless Client provides the written notice to the third party in substantially the form of Appendix A hereto (the "Notice"), which Notice shall be acknowledged in writing by such third party and returned to Client. Upon request, Client shall provide KPMG with a copy of the foregoing Notice and acknowledgement and any notice and acknowledgement sent to Client by such third party as contemplated by the Notice. Client may only make a Deliverable bearing the "KPMG" name or logo available to a third party in its entirety. Notwithstanding the foregoing, (i) in the event of a disclosure made by Client that is required by law, that is made to a regulatory authority having jurisdiction over Client or that is made pursuant to Paragraph 18(a) below, no acknowledgement of the Notice shall be required and (ii) no Notice or acknowledgement shall be required with respect to disclosures expressly authorized by the Engagement Letter.



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5. **Warranties.** KPMG's services under the Engagement Letter are subject to and will be performed in accordance with AICPA and other professional standards applicable to the services provided by KPMG under the Engagement Letter and in accordance with the terms thereof. KPMG disclaims all other warranties, either express or implied.
6. **Limitation on Damages.** Except for the respective indemnification obligations of Client and KPMG set forth herein, the liability of the Client Parties and the KPMG Parties to one another, on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Engagement Letter shall be limited to the amount of fees paid or owing to KPMG under the Engagement Letter. In no event shall any of the Client Parties or any of the KPMG Parties be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). For avoidance of doubt, any damages awarded against any of the Client Parties or the KPMG Parties based on a third party claim subject to indemnification hereunder shall not be subject to the disclaimer in the previous sentence. The provisions of this Paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss asserted, whether in contract, statute, tort (including but not limited to negligence) or otherwise.
7. **Infringement.**
- (a) KPMG hereby agrees to indemnify, hold harmless and defend the Client Parties from and against any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), fines, penalties, taxes or damages (collectively "Liabilities") asserted by a third party against any of the Client Parties to the extent such Liabilities result from the infringement by the Deliverables (including any KPMG Property contained therein) of such third party's patents issued as of the date of the Engagement Letter, trade secrets, trademarks or copyrights. The preceding indemnification shall not apply to any infringement to the extent arising out of (i) use of the Deliverables other than in accordance with applicable documentation or instructions supplied by KPMG or other than for Client's internal business purposes; (ii) any alteration, modification or revision of the Deliverables not expressly agreed to in writing by KPMG; or (iii) the combination of the Deliverables with materials not supplied or approved by KPMG.
- (b) In case any of the Deliverables (including any KPMG Property contained therein) or any portion thereof is held, or in KPMG's reasonable opinion is likely to be held, to constitute infringement, KPMG may, within a reasonable time, at its option either: (i) secure for Client the right to continue the use of such infringing item; or (ii) replace, at KPMG's sole expense, such item with a substantially equivalent non-infringing item or modify such item so that it becomes non-infringing. In the event KPMG is, in its reasonable discretion, unable to perform either of the options described in clauses (i) or (ii) above, Client shall return the allegedly infringing item to KPMG, and KPMG's sole liability shall be to refund to Client the amount paid to KPMG for such item; provided that the foregoing shall not be construed to limit KPMG's indemnification obligation set forth in Paragraph 7(a) above.
- (c) The provisions of this Paragraph 7 state KPMG's entire liability and Client's sole and exclusive remedy with respect to any infringement or claim of infringement.
8. **Indemnification.**
- (a) KPMG agrees to indemnify, hold harmless and defend the Client Parties from and against any and all Liabilities for physical injury to, or illness or death of, any person regardless of status, and damage to or destruction of any tangible property, which any of the Client Parties may sustain or incur, to the extent such Liabilities result from the negligence or willful misconduct of the KPMG Parties. Client agrees to indemnify, hold harmless and defend the KPMG Parties from and against any and all Liabilities for physical injury to, or illness or death of, any person regardless of status, and damage to or destruction of any tangible property, which any of the KPMG Parties may sustain or incur, to the extent such Liabilities result from the negligence or willful misconduct of the Client Parties.
- (b) In accordance with Paragraph 4(c), Client agrees to indemnify, defend and hold harmless the KPMG Parties from and against any and all Liabilities incurred or suffered by or asserted against any of the KPMG Parties in connection with a third party claim to the extent resulting from such party's reliance upon KPMG's advice, recommendations, information, Deliverables or other work product as a result of Client's disclosure of such advice, recommendations, information or work product without adhering to the notice requirements of Paragraph 4(c) above. The foregoing indemnification obligation shall apply regardless of whether the third party claim alleges a breach of contract, violation of statute or tort (including without limitation negligence) by KPMG.
- (c) The party entitled to indemnification (the "Indemnified Party") shall promptly notify the party obligated to provide such indemnification (the "Indemnifying Party") of any claim for which the Indemnified Party seeks indemnification. The Indemnifying Party shall have the right to conduct the defense or settlement of any such claim at the Indemnifying Party's sole expense, and the Indemnified Party shall cooperate with the Indemnifying Party. The party not conducting the defense shall nonetheless have the right to participate in such defense at its own expense. The Indemnified Party shall have the right to approve the settlement of any claim that imposes any liability or obligation other than the payment of money damages for which the Indemnifying Party has accepted responsibility.
9. **Cooperation; Use of Information.**
- (a) Client agrees to cooperate with KPMG in the performance of the services under the Engagement Letter and shall provide or arrange to provide KPMG with timely access to and use of the personnel, facilities, equipment, data and information necessary for KPMG to perform the services under the Engagement Letter. The Engagement Letter may set forth additional details regarding KPMG's access to and use of personnel, facilities, equipment, data and information.
- (b) The Engagement Letter may set forth additional obligations of Client in connection with the services under the Engagement



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Letter necessary for KPMG to perform its obligations under the Engagement Letter. Client acknowledges that its failure to satisfy these obligations could adversely affect KPMG's ability to provide the services under the Engagement Letter.

- (c) Client acknowledges and agrees that KPMG will, in performing the services under the Engagement Letter, base its conclusions on the facts and assumptions that Client furnishes and that KPMG may use data, material, and other information furnished by or at the request or direction of Client without any independent investigation or verification and that KPMG shall be entitled to rely upon the accuracy and completeness of such data, material and other information. Inaccuracy or incompleteness of such data, material and other information furnished to KPMG could have a material adverse effect on KPMG's conclusions.

10. **Independent Contractor.** It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is or shall be considered an agent, distributor or representative of the other. Neither party shall act or represent itself, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

11. **Confidentiality.**

- (a) "Confidential Information" means all documents, software, reports, data, records, forms and other materials obtained by one party (the "Receiving Party") from the other party (the "Disclosing Party") or at the request or direction of the Disclosing Party in the course of performing the services under the Engagement Letter: (i) that have been marked as confidential; (ii) whose confidential nature has been made known by the Disclosing Party to the Receiving Party; or (iii) that due to their character and nature, a reasonable person under like circumstances would treat as confidential. Notwithstanding the foregoing, Confidential Information does not include information which: (1) is already known to the Receiving Party at the time of disclosure by the Disclosing Party; (2) is or becomes publicly known through no wrongful act of the Receiving Party; (3) is independently developed by the Receiving Party without benefit of the Disclosing Party's Confidential Information; (4) relates to information provided by KPMG relating to the tax treatment or tax structure of any transaction; (5) the Receiving Party determines is required to be maintained or disclosed by the Receiving Party under sections 6011, 6111 or 6112 of the Internal Revenue Code ("IRC") or the regulations thereunder or under any similar or analogous provisions of the laws of a state or other jurisdiction; or (6) is received by the Receiving Party from a third party without restriction and without a breach of an obligation of confidentiality.
- (b) The Receiving Party will deliver to the Disclosing Party or destroy all Confidential Information of the Disclosing Party and all copies thereof when the Disclosing Party requests the same, except for copies retained in work paper files or records, anything that may be stored in back up media or other electronic data storage systems, latent data and metadata. Except as otherwise set forth in this Paragraph 11 or Paragraph 15 below, the Receiving Party shall not disclose to any person, firm or entity any Confidential Information of the Disclosing Party without the Disclosing Party's express, prior written permission; provided,

however, that notwithstanding the foregoing, the Receiving Party may disclose Confidential Information to the extent that it is required or necessary to be disclosed pursuant to a statutory or regulatory provision or court or administrative order, or, subject to appropriate conditions of confidentiality, to fulfill professional obligations and standards (including quality and peer review) or to submit and process an insurance claim.

- (c) The KPMG Parties may aggregate Client information with information from other sources in connection with thought leadership projects, to improve the delivery of services to clients and to allow clients to evaluate various business transactions and opportunities. The KPMG Parties will only use this information without attribution to Client and under circumstances where Client will not be identified as the source of the information.
- (d) KPMG may also use Client information and information relating to the services rendered under the Engagement Letter for the purpose of permitting the KPMG Parties to access and share knowledge and information solely among the KPMG Parties. The KPMG Parties receiving this information will be obligated to comply with confidentiality obligations with respect to such information in accordance with this Paragraph 11.
- (e) Each party shall exercise the same level of care to protect the other's information as it exercises to protect its own confidential information but in no event less than reasonable care, except to the extent that applicable law or professional standards impose a higher requirement.
- (f) If the Receiving Party receives a subpoena or other validly issued administrative or judicial demand requiring it to disclose the Disclosing Party's Confidential Information, the Receiving Party shall, unless prohibited by law, provide prompt written notice to the Disclosing Party of such demand in order to permit it to seek a protective order. So long as the Receiving Party gives notice as provided herein, the Receiving Party shall be entitled to comply with such demand to the extent required by law, subject to any protective order or the like that may have been entered in the matter. In the event the Receiving Party is requested to testify or produce its documents relating to the services under the Engagement Letter pursuant to subpoena or other legal process in judicial or administrative proceedings to which it is not a party, or in connection with an informal inquiry or investigation with the consent of the Disclosing Party, the Disclosing Party shall reimburse the Receiving Party for its time and expenses, including reasonable attorney's fees, incurred in responding to such requests.
12. **Assignment.** Subject to Paragraph 15 below, neither party may assign, transfer or delegate any of its rights or obligations without the prior written consent of the other party, such consent not to be unreasonably withheld.
13. **Governing Law; Severability.** The Engagement Letter and these Standard Terms and Conditions shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws provisions. In the event that any term or provision of the Engagement Letter or these terms shall be held to be invalid, void or unenforceable, then the remainder of the Engagement Letter and these terms shall not be



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affected, and each such term and provision shall be valid and enforceable to the fullest extent permitted by law.

14. Alternative Dispute Resolution.

- (a) Any dispute or claim arising out of or relating to the Engagement Letter between the parties or the services provided thereunder shall be submitted first to non-binding mediation (unless either party elects to forego mediation by initiating a written request for arbitration) and if mediation is not successful within 90 days after the issuance by one of the parties of a request for mediation then to binding arbitration in accordance with the Rules for Non-Administered Arbitration of the International Institute for Conflict Prevention and Resolution (the "IICPR"). Any issue concerning the extent to which any dispute is subject to arbitration, or any dispute concerning the applicability, interpretation, or enforceability of these dispute resolution procedures, including any contention that all or part of these procedures is invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. By operation of this provision, the parties agree to forego litigation over such disputes in any court of competent jurisdiction.
- (b) Mediation, if selected, may take place at a location to be designated by the parties using the Mediation Procedures of the IICPR, with the exception of paragraph 2 (Selecting the Mediator).
- (c) Arbitration shall take place in New York, New York. The arbitration panel shall have no power to award non-monetary or equitable relief of any sort except as provided in IICPR Rule 13 (Interim Measures of Protection). Damages that are inconsistent with any applicable agreement between the parties, that are punitive in nature, or that are not measured by the prevailing party's actual damages shall be unavailable in arbitration or any other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitration panel have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.
- (d) Either party may seek to enforce any written agreement reached by the parties during mediation, or to confirm and enforce any final award entered in arbitration, in any court of competent jurisdiction.
- (e) Notwithstanding the agreement to such procedures, either party may seek equitable relief to enforce its rights in any court of competent jurisdiction.

15 Use of Member Firms and Third Party Service Providers.

- (a) Client acknowledges and agrees that the services under the Engagement Letter, including any applicable tax advice, may be performed by a Member Firm located outside of the United States. Client understands that each Member Firm is a separate, distinct and independent legal entity and is not a partner, principal, agent or affiliate of KPMG and KPMG is not a partner, principal, agent or affiliate of any other Member Firm.
- (b) Client further acknowledges that in connection with the performance of services under the Engagement Letter, KPMG

and Member Firms, in their discretion or at Client's direction, may utilize the services of third party service providers within and without the United States to complete the services under the Engagement Letter.

- (c) KPMG uses third party service providers within and without the United States to provide at KPMG's direction administrative and clerical services to KPMG. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by KPMG from or at the request or direction of Client. KPMG represents to Client that each such third party service provider has agreed to conditions of confidentiality with respect to Client's information to the same or similar extent as KPMG has agreed to pursuant to Paragraph 11 above. KPMG has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and KPMG shall be responsible for any consequences of their failure to comply.
- (d) Accordingly, Client consents to KPMG's disclosure to a Member Firm or third party service provider and the use by such Member Firm and third party service provider of data and information, including but not limited to Confidential Information, received from or at the request or direction of Client for the purposes set forth in Paragraph 11 and this Paragraph 15.
- (e) Any services performed by a Member Firm or third party service provider shall be performed in accordance with the terms of the Engagement Letter and these Standard Terms and Conditions, including Paragraph 11 (Confidentiality), but KPMG shall remain responsible to Client for the performance of such services. Client agrees that any claim relating to the services under the Engagement Letter may only be made against KPMG and not any other Member Firm or third party service provider referred to above.

16. Miscellaneous.

- (a) **Sarbanes-Oxley.** Except as otherwise set forth in the Engagement Letter, in accepting this engagement, Client acknowledges that completion of this engagement or acceptance of Deliverables resulting from this engagement will not constitute a basis for Client's assessment or evaluation of internal control over financial reporting and disclosure controls and procedures, or its compliance with its principal officer certification requirements under Section 302 of the Sarbanes-Oxley Act of 2002 (the "Act"). The services under the Engagement Letter shall not be construed to support Client's responsibilities under Section 404 of the Act requiring each annual report filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 to contain an internal control report from management.
- (b) **Electronic Communications.** KPMG and Client may communicate with one another by electronic mail or otherwise transmit documents in electronic form during the course of this engagement. Each party accepts the inherent risks of these forms of communication (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices). Client agrees that the final hardcopy version of a document, including a Deliverable, or other written



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communication that KPMG transmits to Client shall supersede any previous versions transmitted electronically by KPMG to Client unless no such hard copy is transmitted.

- (c) **California Accountancy Act.** For engagements where services will be provided by KPMG through offices located in California, Client acknowledges that certain of KPMG's personnel who may be considered "owners" under the California Accountancy Act and implementing regulations (California Business and Professions Code section 5079(a); 16 Cal. Code Regs. sections 51 and 51.1) and who may provide services in connection with this engagement, may not be licensed as certified public accountants under the laws of any of the various states.
- (d) **Volume Rebates.** Where KPMG is reimbursed for expenses, it is KPMG's policy to bill clients the amount incurred at the time the good or service is purchased. If KPMG subsequently receives a volume rebate or other incentive payment from a vendor relating to such expenses, KPMG does not credit such payment to Client. Instead, KPMG applies such payments to reduce its overhead costs, which costs are taken into account in determining KPMG's standard billing rates and certain transaction charges that may be charged to clients.
- (e) **Use of Names and Logos.** Except as permitted by law or the terms of the Engagement Letter, neither party shall acquire hereunder any right to use the name or logo of the other party or any part thereof. Any such use shall require the express written consent of the owner party.
- (f) **Privileged Communications.** Information relating to advice KPMG provides to Client, including communications between KPMG and Client and material KPMG creates in the course of providing advice, may be privileged and protected from disclosure to the IRS or other governmental authority in certain circumstances. As KPMG is not able to assert the privilege on Client's behalf with respect to any communications for which privilege has been waived, Client agrees to promptly notify KPMG of any such waivers, whether resulting from communications with KPMG or third parties in the same or a related matter. Client also understands that privilege may not be available for communications with an audit client and that KPMG personnel providing audit and non-audit services will discuss matters that may affect the audit to the extent required by applicable professional standards. Client agrees that KPMG will not assert on Client's behalf any claim of privilege unless Client specifically instructs KPMG in writing to do so after discussing the specific request and the grounds on which such privilege claim would be made. Notwithstanding the foregoing, Client acknowledges that in no event will KPMG assert any claim of privilege that KPMG concludes, after exercising reasonable judgment, is not valid.
- (g) **Active Spreadsheets and Electronic Files.** KPMG may use models, electronic files and spreadsheets with embedded macros created by KPMG to assist KPMG in providing the services under the Engagement Letter. If Client requests a working copy of any such model, electronic file or spreadsheet, KPMG may, at its discretion, make such item available to Client for its internal use only and such item shall be considered a Deliverable subject to Paragraph 4 above; provided that Client is responsible for

obtaining the right to use any third party products necessary to use or operate such item.

- (h) **Non-Solicitation.** During the term of the Engagement Letter and for one year thereafter, neither party shall solicit for hire as an employee, consultant or otherwise any of the other party's personnel who have had direct involvement with the services under the Engagement Letter, without such other party's express written consent. This prohibition shall not apply to any offers of employment which result from a general solicitation for employment, including without limitation, through the Internet, newspapers, magazines and radio.
17. **Entire Agreement.** The Engagement Letter and these Standard Terms and Conditions, including the Exhibits and Appendices hereto and thereto, constitute the entire agreement between KPMG and Client with respect to the services under the Engagement Letter and supersede all other oral and written representations, understandings or agreements relating thereto.
18. **Additional Terms for Engagements Involving Tax Services.**
- (a) Notwithstanding anything to the contrary set forth herein, no provision in the Engagement Letter or these Standard Terms and Conditions is or is intended to be construed as a condition of confidentiality within the meaning of IRC sections 6011, 6111, 6112 or the regulations thereunder, or under any similar or analogous provisions of the laws of a state or other jurisdiction. In particular, Client (and each employee, representative, or other agent of Client) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of any transaction within the scope of this engagement and all materials of any kind (including opinions and other tax analyses) that are provided to Client relating to such tax treatment and tax structure. Client also agrees to use commercially reasonable efforts to inform KPMG of any conditions of confidentiality imposed by third party advisors with respect to any transaction on which KPMG advice is requested. Such notification must occur prior to KPMG providing any advice with respect to the transaction.
 - (b) Treasury regulations under IRC section 6011 require taxpayers to disclose to the IRS their participation in reportable transactions and IRC section 6707A imposes strict penalties for noncompliance. Client agrees to use commercially reasonable efforts to inform KPMG if Client is required to disclose any transaction covered by the Engagement Letter as a reportable transaction to the IRS or to any state or other jurisdiction adopting similar or analogous provisions. IRC section 6111 requires a material advisor with respect to a reportable transaction to disclose information on the transaction to the IRS by a prescribed date, and IRC section 6112 requires the material advisor to maintain, and make available to the IRS upon request, a list of persons and other information with respect to the transaction. KPMG will use commercially reasonable efforts to inform Client if KPMG provides Client's identifying information to the IRS under IRC section 6111 or 6112, or to any state or other jurisdiction adopting similar or analogous provisions.
 - (c) Unless expressly provided for, KPMG's services do not include representing Client in the event of a challenge by the IRS or other tax or revenue authorities.



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- (d) In rendering tax advice, KPMG may consider, for example, the applicable provisions of the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974, each as amended, and the relevant state, local and foreign statutes, the regulations thereunder, income tax treaties, and judicial and administrative interpretations, thereof. These authorities are subject to change, retroactively or prospectively, and any such changes could affect the validity of KPMG's advice.



APPENDIX A

[FORM OF NOTICE AND ACKNOWLEDGEMENT]


[Name of Third Party]
Address

The advice, recommendations and information in the document included with this notice were prepared for the sole benefit of [Name of Client], based on the specific facts and circumstances of [Name of Client], and its use is limited to the scope of KPMG's engagement for [Name of Client]. It has been provided to you for informational purposes only and you are not authorized by KPMG to rely upon it and any such reliance by you or anyone else shall be at your or their own risk. You acknowledge and agree that KPMG accepts no responsibility or liability in respect of the advice, recommendations or other information in such document to any person or organization other than [Name of Client]. You shall have no right to disclose the advice, recommendations or other information in such document to anyone else without including a copy of this notice and, unless disclosure is required by law or to fulfill a professional obligation required under applicable professional standards, obtaining a signed acknowledgement of this notice from the party to whom disclosure is made and you provide a copy thereof to [Name of Client]. You acknowledge and agree that you will be responsible for any damages suffered by KPMG as a result of your failure to comply with the terms of this notice.

Please acknowledge your acceptance of the foregoing by signing and returning to us a copy of this letter.*

Very truly yours,

[Name of Client]

By: 
Name: C. Maclaine Kuran
Title: Executive Director

Accepted and Agreed to on this 19 day of Jan 2012 by:*

[Name of Third Party]

By: _____
Name:
Title:

*Remove in the event of a disclosure made by Client that is required by law, that is made to a regulatory authority having jurisdiction over Client or that is made pursuant to Paragraph 18(a) of the Standard Terms and Conditions in which case an acknowledgement is not required by the terms of Paragraph 4(c).



KPMG LLP
Stamford Square
3001 Summer Street
Stamford, CT 06905-4317

Telephone +1 203 356 9800
Fax +1 203 967 3503
Internet www.us.kpmg.com

October 3, 2011

PRIVATE

Mr. Laine Kenan
Arcapita Bank BSC (c)
c/o Arcapita Inc.
75 Fourteenth Street, 24th Floor
Atlanta, GA 30309

Dear Laine:

We refer to the engagement letter dated January 6, 2011 (the "Agreement") between Arcapita Bank B.S.C.(c) ("Client") and KPMG LLP for Tax Compliance Services (the "Services").

It is hereby agreed by Client and KPMG that the Services and corresponding fees in the Agreement shall be modified as follows:

Additional Services

We will prepare **Amended** Federal and state tax returns on behalf of U.S. Senior Living Funding, Inc. and USSLF Subco, Inc. for the year ended December 31, 2009.

Additional Fees

Our fees for the services under this addendum will be based on the actual time incurred to complete the work at 70% of our standard hourly rates for the individuals involved in providing the services. We will also bill you an administrative recovery fee equal to 11.5% of our undiscounted standard hourly rates for the time incurred in completing this engagement.

Other

Except as expressly amended hereby, the Agreement shall remain in full force and effect in accordance with all of the terms and conditions set forth therein.

Please sign and return the enclosed copy of this Addendum or acknowledge by return e-mail your confirmation of Client's agreement to this Addendum.



Page 2
Mr. Laine Kenan
Arcapita Bank BSC (c)
October 3, 2011

Very truly yours,

KPMG LLP

A handwritten signature in cursive script that reads 'Mary C. Grande'.

Mary C. Grande
Partner

ACCEPTED

Arcapita Bank BSC (c)

A handwritten signature in cursive script, appearing to be 'M. Kenan', written over a horizontal line.

Authorized Signature

Executive Director

Title

10-4-11

Date

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1. **Services; Client Responsibilities.**
 - (a) References herein to Client shall refer to the addressee of the Proposal or Engagement Letter to which these Standard Terms and Conditions are attached or incorporated (the "Engagement Letter") and references herein to KPMG shall refer to KPMG LLP, a Delaware registered limited liability partnership and the United States member firm of KPMG International Cooperative (KPMG International), a Swiss entity. Client, its parent company and their affiliates, and their respective directors, officers, employees, and agents are collectively referred to herein as the "Client Parties." KPMG, any member firm of KPMG International referred to in Paragraph 15(a) below, and their affiliates, and their respective partners, principals, employees, and agents are collectively referred to herein as the "KPMG Parties."
 - (b) It is understood and agreed that KPMG's services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, Client. KPMG will not perform management functions or make management decisions for Client.
 - (c) If KPMG audits the financial statements of Client or provides any other attestation services to Client, the rules of the American Institute of Certified Public Accountants ("AICPA") require Client to agree to the following provisions of this Paragraph 1(c). In connection with KPMG's provision of services under the Engagement Letter, Client agrees that Client, and not KPMG, shall perform the following functions: (i) make all management decisions and perform all management functions; (ii) designate an individual who possesses suitable skill, knowledge and experience, preferably within senior management, to oversee such services, and to evaluate the adequacy and results of such services; (iii) accept responsibility for the results of such services; and (iv) establish and maintain internal controls over the processes with which such services are concerned, including monitoring on-going activities.
 - (d) Subsequent to the completion of this engagement, KPMG will not update its advice, recommendations or work product for changes or modifications to the law and regulations, or to the judicial and administrative interpretations thereof, or for subsequent events or transactions, unless Client separately engages KPMG to do so in writing after such changes or modifications, interpretations, events or transactions.
2. **Tax on Services.** All fees, charges and other amounts payable to KPMG under the Engagement Letter do not include any sales, use, excise, value added or other applicable taxes, tariffs or duties, payment of which shall be Client's sole responsibility, excluding any applicable taxes based on KPMG's net income or taxes arising from the employment or independent contractor relationship between KPMG and its personnel.
3. **Termination.** Either party may terminate the Engagement Letter at any time by giving written notice to the other party not less than 30 calendar days before the effective date of termination.
4. **Ownership and Use of Deliverables.**
 - (a) KPMG has created, acquired, owns or otherwise has rights in, and may, in connection with the performance of services under the Engagement Letter, use, provide, modify, create, acquire or otherwise obtain rights in, (i) concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and software and (ii) the general elements of style, design, art work and graphics and content of general applicability included in KPMG's Deliverables (as defined below) or work product not specific to Client or the services under the engagement letter (collectively, the "KPMG Property"). KPMG retains all ownership and use rights in the KPMG Property. Client shall acquire no rights or interest in the KPMG Property, except as expressly provided in the next paragraph. KPMG acknowledges that KPMG Property shall not include any of Client's confidential information or tangible or intangible property, and KPMG shall have no ownership rights in such property.
 - (b) Except for KPMG Property, and upon full and final payment to KPMG under the Engagement Letter, the tangible items specified as deliverables or work product in the Engagement Letter including any intellectual property rights appurtenant thereto (the "Deliverables") will become the property of Client. If any KPMG Property is contained in any of the Deliverables, KPMG hereby grants Client a royalty-free, paid-up, non-exclusive, perpetual license to use such KPMG Property in connection with Client's use of the Deliverables. Client acknowledges and agrees that KPMG shall have the right to retain for its files copies of each of the Deliverables.
 - (c) Client acknowledges and agrees that any advice, recommendations, information, Deliverables or other work product provided to Client by KPMG in connection with the services under the Engagement Letter is intended for Client's sole benefit and KPMG does not authorize any other party to rely upon such advice, recommendations, information, Deliverables or other work product and any such reliance shall be at such party's sole risk. Client agrees that if it makes such advice, recommendations, information or work product available to any third party other than as expressly permitted by the Engagement Letter the provisions of Paragraph 8(b) shall apply unless Client provides the written notice to the third party in substantially the form of Appendix A hereto (the "Notice"), which Notice shall be acknowledged in writing by such third party and returned to Client. Upon request, Client shall provide KPMG with a copy of the foregoing Notice and acknowledgement and any notice and acknowledgement sent to Client by such third party as contemplated by the Notice. Client may only make a Deliverable bearing the "KPMG" name or logo available to a third party in its entirety. Notwithstanding the foregoing, (i) in the event of a disclosure made by Client that is required by law, that is made to a regulatory authority having jurisdiction over Client or that is made pursuant to Paragraph 18(a) below, no acknowledgement of the Notice shall be required and (ii) no Notice or acknowledgement shall be required with respect to disclosures expressly authorized by the Engagement Letter.

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5. **Warranties.** KPMG's services under the Engagement Letter are subject to and will be performed in accordance with AICPA and other professional standards applicable to the services provided by KPMG under the Engagement Letter and in accordance with the terms thereof. KPMG disclaims all other warranties, either express or implied.
6. **Limitation on Damages.** Except for the respective indemnification obligations of Client and KPMG set forth herein, the liability of the Client Parties and the KPMG Parties to one another, on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Engagement Letter shall be limited to the amount of fees paid or owing to KPMG under the Engagement Letter. In no event shall any of the Client Parties or any of the KPMG Parties be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). The provisions of this Paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss asserted, whether in contract, statute, tort (including but not limited to negligence) or otherwise.
7. **Infringement.**
- (a) KPMG hereby agrees to indemnify, hold harmless and defend the Client Parties from and against any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), fines, penalties, taxes or damages (collectively "Liabilities") asserted by a third party against any of the Client Parties to the extent such Liabilities result from the infringement by the Deliverables (including any KPMG Property contained therein) of such third party's patents issued as of the date of the Engagement Letter, trade secrets, trademarks or copyrights. The preceding indemnification shall not apply to any infringement to the extent arising out of (i) use of the Deliverables other than in accordance with applicable documentation or instructions supplied by KPMG or other than for Client's internal business purposes; (ii) any alteration, modification or revision of the Deliverables not expressly agreed to in writing by KPMG; or (iii) the combination of the Deliverables with materials not supplied or approved by KPMG.
- (b) In case any of the Deliverables (including any KPMG Property contained therein) or any portion thereof is held, or in KPMG's reasonable opinion is likely to be held, to constitute infringement, KPMG may, within a reasonable time, at its option either: (i) secure for Client the right to continue the use of such infringing item; or (ii) replace, at KPMG's sole expense, such item with a substantially equivalent non-infringing item or modify such item so that it becomes non-infringing. In the event KPMG is, in its reasonable discretion, unable to perform either of the options described in clauses (i) or (ii) above, Client shall return the allegedly infringing item to KPMG, and KPMG's sole liability shall be to refund to Client the amount paid to KPMG for such item; provided that the foregoing shall not be construed to limit KPMG's indemnification obligation set forth in Paragraph 7(a) above.
- (c) The provisions of this Paragraph 7 state KPMG's entire liability and Client's sole and exclusive remedy with respect to any infringement or claim of infringement.
8. **Indemnification.**
- (a) KPMG agrees to indemnify, hold harmless and defend the Client Parties from and against any and all Liabilities for physical injury to, or illness or death of, any person regardless of status, and damage to or destruction of any tangible property, which any of the Client Parties may sustain or incur, to the extent such Liabilities result from the negligence or willful misconduct of the KPMG Parties. Client agrees to indemnify, hold harmless and defend the KPMG Parties from and against any and all Liabilities for physical injury to, or illness or death of, any person regardless of status, and damage to or destruction of any tangible property, which any of the KPMG Parties may sustain or incur, to the extent such Liabilities result from the negligence or willful misconduct of the Client Parties.
- (b) In accordance with Paragraph 4(c), Client agrees to indemnify, defend and hold harmless the KPMG Parties from and against any and all Liabilities incurred or suffered by or asserted against any of the KPMG Parties in connection with a third party claim to the extent resulting from such party's reliance upon KPMG's advice, recommendations, information, Deliverables or other work product as a result of Client's disclosure of such advice, recommendations, information or work product without adhering to the notice requirements of Paragraph 4(c) above. The foregoing indemnification obligation shall apply regardless of whether the third party claim alleges a breach of contract, violation of statute or tort (including without limitation negligence) by KPMG.
- (c) The party entitled to indemnification (the "Indemnified Party") shall promptly notify the party obligated to provide such indemnification (the "Indemnifying Party") of any claim for which the Indemnified Party seeks indemnification. The Indemnifying Party shall have the right to conduct the defense or settlement of any such claim at the Indemnifying Party's sole expense, and the Indemnified Party shall cooperate with the Indemnifying Party. The party not conducting the defense shall nonetheless have the right to participate in such defense at its own expense. The Indemnified Party shall have the right to approve the settlement of any claim that imposes any liability or obligation other than the payment of money damages.
9. **Cooperation; Use of Information.**
- (a) Client agrees to cooperate with KPMG in the performance of the services under the Engagement Letter and shall provide or arrange to provide KPMG with timely access to and use of the personnel, facilities, equipment, data and information necessary for KPMG to perform the services under the Engagement Letter. The Engagement Letter may set forth additional details regarding KPMG's access to and use of personnel, facilities, equipment, data and information.
- (b) The Engagement Letter may set forth additional obligations of Client in connection with the services under the Engagement

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Letter. Client acknowledges that its failure to perform these obligations could adversely affect KPMG's ability to provide the services under the Engagement Letter.

- (c) Client acknowledges and agrees that KPMG will, in performing the services under the Engagement Letter, base its conclusions on the facts and assumptions that Client furnishes and that KPMG may use data, material, and other information furnished by or at the request or direction of Client without any independent investigation or verification and that KPMG shall be entitled to rely upon the accuracy and completeness of such data, material and other information. Inaccuracy or incompleteness of such data, material and other information furnished to KPMG could have a material adverse effect on KPMG's conclusions.

10. **Independent Contractor.** It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is or shall be considered an agent, distributor or representative of the other. Neither party shall act or represent itself, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

11. **Confidentiality.**

- (a) "Confidential Information" means all documents, software, reports, data, records, forms and other materials obtained by one party (the "Receiving Party") from the other party (the "Disclosing Party") or at the request or direction of the Disclosing Party in the course of performing the services under the Engagement Letter: (i) that have been marked as confidential; (ii) whose confidential nature has been made known by the Disclosing Party to the Receiving Party; or (iii) that due to their character and nature, a reasonable person under like circumstances would treat as confidential. Notwithstanding the foregoing, Confidential Information does not include information which: (1) is already known to the Receiving Party at the time of disclosure by the Disclosing Party; (2) is or becomes publicly known through no wrongful act of the Receiving Party; (3) is independently developed by the Receiving Party without benefit of the Disclosing Party's Confidential Information; (4) relates to information provided by KPMG relating to the tax treatment or tax structure of any transaction, (5) the Receiving Party determines is required to be maintained or disclosed by the Receiving Party under sections 6011, 6111 or 6112 of the Internal Revenue Code ("IRC") or the regulations thereunder or under any similar or analogous provisions of the laws of a state or other jurisdiction or (6) is received by the Receiving Party from a third party without restriction and without a breach of an obligation of confidentiality.

- (b) The Receiving Party will deliver to the Disclosing Party or destroy all Confidential Information of the Disclosing Party and all copies thereof when the Disclosing Party requests the same, except for copies retained in work paper files or records, anything that may be stored in back up media or other electronic data storage systems, latent data and metadata. The Receiving Party shall not use or disclose to any person, firm or entity any Confidential Information of the Disclosing Party without the Disclosing Party's express, prior written permission; provided,

however, that notwithstanding the foregoing, the Receiving Party may disclose Confidential Information to the extent that it is required or necessary to be disclosed pursuant to a statutory or regulatory provision or court or administrative order, to fulfill professional obligations and standards (including quality and peer review) or to submit and process an insurance claim. Further, KPMG may aggregate Client information with information from other sources in connection with thought leadership projects, to improve the delivery of services to clients and to allow clients to evaluate various business transactions and opportunities. KPMG will only use this information without attribution to Client and under circumstances where Client will not be identified as the source of the information.

- (c) Each party shall be deemed to have met its nondisclosure obligations under this Paragraph 11 as long as it exercises the same level of care to protect the other's information as it exercises to protect its own confidential information but in no event less than reasonable care, except to the extent that applicable law or professional standards impose a higher requirement.

- (d) If the Receiving Party receives a subpoena or other validly issued administrative or judicial demand requiring it to disclose the Disclosing Party's Confidential Information, the Receiving Party shall provide prompt written notice to the Disclosing Party of such demand in order to permit it to seek a protective order. So long as the Receiving Party gives notice as provided herein, the Receiving Party shall be entitled to comply with such demand to the extent required by law, subject to any protective order or the like that may have been entered in the matter. In the event the Receiving Party is requested to testify or produce its documents relating to the services under the Engagement Letter pursuant to subpoena or other legal process in judicial or administrative proceedings to which it is not a party, or in connection with an informal inquiry or investigation with the consent of the Disclosing Party, the Disclosing Party shall reimburse the Receiving Party for its time and expenses, including reasonable attorney's fees, incurred in responding to such requests.

12. **Assignment.** Subject to Paragraph 15 below, neither party may assign, transfer or delegate any of its rights or obligations without the prior written consent of the other party, such consent not to be unreasonably withheld.

13. **Governing Law; Severability.** The Engagement Letter and these Standard Terms and Conditions shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws provisions. In the event that any term or provision of the Engagement Letter or these terms shall be held to be invalid, void or unenforceable, then the remainder of the Engagement Letter and these terms shall not be affected, and each such term and provision shall be valid and enforceable to the fullest extent permitted by law.

14. **Alternative Dispute Resolution.**

- (a) Any dispute or claim arising out of or relating to the Engagement Letter between the parties or the services provided thereunder shall be submitted first to non-binding mediation (unless either

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party elects to forego mediation by initiating a written request for arbitration) and if mediation is not successful within 90 days after the issuance by one of the parties of a request for mediation then to binding arbitration in accordance with the Rules for Non-Administered Arbitration of the International Institute for Conflict Prevention and Resolution (the "IICPR"). Any issue concerning the extent to which any dispute is subject to arbitration, or any dispute concerning the applicability, interpretation, or enforceability of these dispute resolution procedures, including any contention that all or part of these procedures is invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. By operation of this provision, the parties agree to forego litigation over such disputes in any court of competent jurisdiction.

- (b) Mediation, if selected, may take place at a location to be designated by the parties using the Mediation Procedures of the IICPR, with the exception of paragraph 2 (Selecting the Mediator).
- (c) Arbitration shall take place in New York, New York. The arbitration panel shall have no power to award non-monetary or equitable relief of any sort except as provided in IICPR Rule 13 (Interim Measures of Protection). Damages that are inconsistent with any applicable agreement between the parties, that are punitive in nature, or that are not measured by the prevailing party's actual damages shall be unavailable in arbitration or any other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitration panel have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.
- (d) Either party may seek to enforce any written agreement reached by the parties during mediation, or to confirm and enforce any final award entered in arbitration, in any court of competent jurisdiction.
- (e) Notwithstanding the agreement to such procedures, either party may seek equitable relief to enforce its rights in any court of competent jurisdiction.

15 Use of Member Firms, Affiliates and Third Party Service Providers.

- (a) To the extent any of the services under the Engagement Letter will be performed in or relate to a jurisdiction outside of the United States, Client acknowledges and agrees that such services, including any applicable tax advice, may be performed by a member firm of KPMG International practicing in such jurisdiction. Client understands that KPMG International and each such member firm is a separate, distinct and independent legal entity and is not a partner, principal, agent or affiliate of KPMG and KPMG is not a partner, principal, agent or affiliate of KPMG International or any such member firm.
- (b) Client further acknowledges that (i) in connection with the performance of services under the Engagement Letter, KPMG, in its discretion or at Client's direction, may utilize the services of affiliates and third party service providers within and without the

United States to complete the services under the Engagement Letter, and (ii) KPMG uses third party service providers within and without the United States to provide at KPMG's direction administrative and clerical services to KPMG.

- (c) Accordingly, Client consents to KPMG's disclosure to a member firm, affiliate or third party service provider and such member firm's, affiliate's and third party service provider's use of data and information, including but not limited to Confidential Information and "tax return information" within the meaning of Treasury Regulations section 301.7216-1(b)(3) (or a successor provision), received from or at the request or direction of Client for the purposes set forth in Paragraphs 15(a) and 15(b) above.
- (d) Any services performed by a member firm, affiliate or third party service provider shall satisfy the terms of the Engagement Letter and KPMG shall remain responsible to Client for the performance of such services. Client agrees that any claim relating to the services under the Engagement Letter may only be made against KPMG and not any other member firm, affiliate or third party service provider referred to above.

16. Miscellaneous.

- (a) **Sarbanes-Oxley.** Except as otherwise set forth in the Engagement Letter, in accepting this engagement, Client acknowledges that completion of this engagement or acceptance of Deliverables resulting from this engagement will not constitute a basis for Client's assessment or evaluation of internal control over financial reporting and disclosure controls and procedures, or its compliance with its principal officer certification requirements under Section 302 of the Sarbanes-Oxley Act of 2002 (the "Act"). The services under the Engagement Letter shall not be construed to support Client's responsibilities under Section 404 of the Act requiring each annual report filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 to contain an internal control report from management.
- (b) **Electronic Communications.** KPMG and Client may communicate with one another by electronic mail or otherwise transmit documents in electronic form during the course of this engagement. Each party accepts the inherent risks of these forms of communication (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices). Client agrees that the final hardcopy version of a document or other communication that KPMG transmits to Client shall supersede any previous versions or communications transmitted electronically by KPMG to Client unless no such hard copy is transmitted.
- (c) **California Accountancy Act.** For engagements where services will be provided by KPMG through offices located in California, Client acknowledges that certain of KPMG's personnel who may be considered "owners" under the California Accountancy Act and implementing regulations (California Business and Professions Code section 5079(a); 16 Cal. Code Regs. sections 51 and 51.1) and who may provide services in connection with this engagement, may not be licensed as certified public accountants under the laws of any of the various states.

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- (d) **Volume Rebates.** Where KPMG is reimbursed for expenses, it is KPMG's policy to bill clients the amount incurred at the time the good or service is purchased. If KPMG subsequently receives a volume rebate or other incentive payment from a vendor relating to such expenses, KPMG does not credit such payment to Client. Instead, KPMG applies such payments to reduce its overhead costs, which costs are taken into account in determining KPMG's standard billing rates and certain transaction charges that may be charged to clients.
- (e) **Use of Names and Logos.** Except as permitted by law or the terms of the Engagement Letter, neither party shall acquire hereunder any right to use the name or logo of the other party or any part thereof. Any such use shall require the express written consent of the owner party.
- (f) **Privileged Communications.** Information relating to advice KPMG provides to Client, including communications between KPMG and Client and material KPMG creates in the course of providing advice, may be privileged and protected from disclosure to the IRS or other governmental authority in certain circumstances. As KPMG is not able to assert the privilege on Client's behalf with respect to any communications for which privilege has been waived, Client agrees to promptly notify KPMG of any such waivers, whether resulting from communications with KPMG or third parties in the same or a related matter. Client also understands that privilege may not be available for communications with an audit client and that KPMG personnel providing audit and non-audit services will discuss matters that may affect the audit to the extent required by applicable professional standards. Client agrees that KPMG will not assert on Client's behalf any claim of privilege unless Client specifically instructs KPMG in writing to do so after discussing the specific request and the grounds on which such privilege claim would be made. Notwithstanding the foregoing, Client acknowledges that in no event will KPMG assert any claim of privilege that KPMG concludes, after exercising reasonable judgment, is not valid.
- (g) **Active Spreadsheets and Electronic Files.** KPMG may use models, electronic files and spreadsheets with embedded macros created by KPMG to assist KPMG in providing the services under the Engagement Letter. If Client requests a working copy of any such model, electronic file or spreadsheet, KPMG may, at its discretion, make such item available to Client for its internal use only and such item shall be considered a Deliverable subject to Paragraph 4 above; provided that Client is responsible for obtaining the right to use any third party products necessary to use or operate such item.
- (h) **Non-Solicitation.** During the term of the Engagement Letter and for one year thereafter, neither party shall solicit for hire as an employee, consultant or otherwise any of the other party's personnel who have had direct involvement with the services under the Engagement Letter, without such other party's express written consent. This prohibition shall not apply to any offers of employment which result from a general solicitation for employment, including without limitation, through the Internet, newspapers, magazines and radio.
- 17. **Entire Agreement.** The Engagement Letter and these Standard Terms and Conditions, including the Exhibits and Appendices hereto and thereto, constitute the entire agreement between KPMG and Client with respect to the services under the Engagement Letter and supersede all other oral and written representation, understandings or agreements relating thereto.
- 18. **Additional Terms for Engagements Involving Tax Services.**
 - (a) Notwithstanding anything to the contrary set forth herein, no provision in the Engagement Letter or these Standard Terms and Conditions is or is intended to be construed as a condition of confidentiality within the meaning of IRC sections 6011, 6111, 6112 or the regulations thereunder, or under any similar or analogous provisions of the laws of a state or other jurisdiction. In particular, Client (and each employee, representative, or other agent of Client) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of any transaction within the scope of this engagement and all materials of any kind (including opinions and other tax analyses) that are provided to Client relating to such tax treatment and tax structure. Client also agrees to use commercially reasonable efforts to inform KPMG of any conditions of confidentiality imposed by third party advisors with respect to any transaction on which KPMG advice is requested. Such notification must occur prior to KPMG providing any advice with respect to the transaction.
 - (b) Treasury regulations under IRC section 6011 require taxpayers to disclose to the IRS their participation in reportable transactions and IRC section 6707A imposes strict penalties for noncompliance. Client agrees to use commercially reasonable efforts to inform KPMG if Client is required to disclose any transaction covered by the Engagement Letter as a reportable transaction to the IRS or to any state or other jurisdiction adopting similar or analogous provisions. IRC section 6111 requires a material advisor with respect to a reportable transaction to disclose information on the transaction to the IRS by a prescribed date, and IRC section 6112 requires the material advisor to maintain, and make available to the IRS upon request, a list of persons and other information with respect to the transaction. KPMG will use commercially reasonable efforts to inform Client if KPMG provides Client's identifying information to the IRS under IRC section 6111 or 6112, or to any state or other jurisdiction adopting similar or analogous provisions.
 - (c) Unless expressly provided for, KPMG's services do not include representing Client in the event of a challenge by the IRS or other tax or revenue authorities.
 - (d) In rendering tax advice, KPMG may consider, for example, the applicable provisions of the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974, each as amended, and the relevant state, local and foreign statutes, the regulations thereunder, income tax treaties, and judicial and administrative interpretations, thereof. These authorities are subject to change, retroactively or prospectively, and any such changes could affect the validity of KPMG's advice.

APPENDIX A

[FORM OF NOTICE AND ACKNOWLEDGEMENT]

[Name of Third Party]
Address

The advice, recommendations and information in the document included with this notice were prepared for the sole benefit of [Name of Client], based on the specific facts and circumstances of [Name of Client], and its use is limited to the scope of KPMG's engagement for [Name of Client]. It has been provided to you for informational purposes only and you are not authorized by KPMG to rely upon it and any such reliance by you or any one else shall be at your or their own risk. You acknowledge and agree that KPMG accepts no responsibility or liability in respect of the advice, recommendations or other information in such document to any person or organization other than [Name of Client]. You shall have no right to disclose the advice, recommendations or other information in such document to anyone else without including a copy of this notice and, unless disclosure is required by law or to fulfill a professional obligation required under applicable professional standards, obtaining a signed acknowledgement of this notice from the party to whom disclosure is made and you provide a copy thereof to [Name of Client]. You acknowledge and agree that you will be responsible for any damages suffered by KPMG as a result of your failure to comply with the terms of this notice.

Please acknowledge your acceptance of the foregoing by signing and returning to us a copy of this letter.*

Very truly yours,

[Name of Client]

By: _____
Name:
Title:

Accepted and Agreed to on this ___ day of ___, 20__ by:*

[Name of Third Party]

By: _____
Name:
Title:

*Remove in the event of a disclosure made by Client that is required by law, that is made to a regulatory authority having jurisdiction over Client or that is made pursuant to Paragraph 18(a) of the Standard Terms and Conditions in which case an acknowledgement is not required by the terms of Paragraph 4(c).



KPMG LLP
Stamford Square
3001 Summer Street
Stamford, CT 06905-4317

Telephone +1 203 356 9800
Fax +1 203 967 3503
Internet www.us.kpmg.com

January 6, 2011

PRIVATE

Mr. Laine Kenan
Arcapita Bank B.S.C. (c)
c/o Arcapita Inc.
75 Fourteenth Street, 24th Floor
Atlanta, GA 30309

Dear Laine:

We are pleased you have engaged KPMG LLP (KPMG) to provide tax compliance and tax consulting services for Arcapita Bank B.S.C. (c) and its affiliates (collectively referred to as "Arcapita"). This letter confirms the scope and related terms of your engagement of KPMG.

I. Tax Compliance Services

We will perform the following services:

1. We will prepare federal and state corporate tax returns and supporting schedules for Arcapita's 2010 tax year. Our records indicate that we should prepare the following returns for the listed entities as detailed in Exhibit A.
2. We will determine the corporation's quarterly estimated tax payments for the 2011 tax year.

This engagement letter is also intended to apply to preliminary engagement planning activities related to the tax returns specified above for the immediately succeeding tax year.

If we have returned to us a signed copy of this letter, we will automatically prepare, for your filing, a request for extension of time to file the applicable returns.

We will prepare these returns from the information you submit. We will not audit or independently verify the data you submit. However, we may ask for clarification of some of the information. Our engagement cannot be relied on to uncover errors, omissions, or irregularities, should any exist in the underlying information incorporated in the tax returns. However, we will inform you of any such matters that come to our attention. Because management has ultimate responsibility for the tax returns, please have the appropriate corporate officials review the returns before an officer signs and files the returns.

Please note that if Arcapita had a taxable presence (e.g., an employee within the jurisdiction or any tangible property owned or rented within the jurisdiction) in a jurisdiction not listed in Exhibit A, it may be subject to income or franchise tax in that jurisdiction, depending upon the



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Arcapita Bank B.S.C. (c)

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particular facts. It is Arcapita's obligation to notify KPMG if assistance is needed to determine whether Arcapita is liable for income or franchise tax or has a filing requirement in any jurisdiction not listed in Exhibit A.

All returns are subject to examination by the taxing authorities. In the event of an examination, Arcapita may be requested to produce documents, records, or other evidence to substantiate the items of income and deduction shown on the tax returns. In preparing your returns, we rely on your representations that you understand and have complied with applicable documentation requirements for Arcapita's income, expenses, deductions, and credits. If an examination occurs, and if you and we agree to have KPMG assist or represent Arcapita in the examination, any such additional services and the fee therefore would be set forth in a separate engagement letter.

Tax Return Standards

KPMG applies elevated standards in preparing tax returns. Under these standards, we must be able to determine that a return position is at least "more likely than not" to be upheld (i.e., has a greater than 50 percent likelihood of success if challenged by the taxing authorities). If a return position relates to a transaction that is a "principal purpose transaction" or a transaction that the IRS or a state tax authority has identified as a "listed transaction," we must arrive at a "should" confidence level (i.e., approximately a 70 percent or greater likelihood of success if challenged by the taxing authorities) with respect to the position. In determining whether a return position meets the appropriate standard, we will not take into account the possibility that a tax return will not be audited, that an issue will not be raised on audit, or that an issue will be settled. We will inform you as soon as possible if, during our preparation, we determine circumstances exist that prevent us from completing the tax return under these standards. We will not render any advice with respect to a federal or state "listed transaction" or any transaction that is substantially similar to a federal or state "listed transaction."

Electronic Filing

KPMG will electronically file the returns we prepare for you that are subject to tax authority mandates. The filing instructions that KPMG provides to you will indicate the returns that KPMG has electronically filed on your behalf, if any, and will provide instructions and filing copies for your paper filing of the returns that were not electronically filed.

II. Tax Consulting Services

This engagement letter also covers tax consulting matters that may arise for which you seek our advice, both written and oral, and that are not the subject of a separate engagement letter. We will apply the elevated standards described in the "Tax Return Standards" section of this letter with respect to any such advice which would cause KPMG to be considered a tax return preparer under Treasury Regulation §301.7701-15. KPMG will not render any advice with respect to a



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January 6, 2011

federal or state "listed transaction" or any transaction that is substantially similar to a federal or state "listed transaction."

If matters exceed the scope of this engagement letter, we will issue a separate engagement letter or clarifying addendum to confirm the scope and related terms. Furthermore, a separate engagement letter will be issued for each discrete tax consulting project not specified in this engagement letter (e.g., transfer pricing study, corporate acquisition or disposition, etc.) and for tax controversy representation.

When, in the course of providing general tax consulting services, it is determined that the service would exceed the scope of this letter, preliminary engagement planning activities undertaken prior to the issuance of a separate engagement letter for the discrete tax consulting project are intended to be covered by this engagement letter.

To be of greatest assistance to Arcapita, we should be advised **in advance** of proposed transactions.

We do not anticipate that the written tax advice provided under this engagement letter will be a Covered Opinion as defined in §10.35 of Circular 230 (Covered Opinion). Therefore, all the written tax advice provided under this engagement letter will contain the following legend:

ANY TAX ADVICE IN THIS COMMUNICATION IS NOT INTENDED OR WRITTEN BY KPMG TO BE USED, AND CANNOT BE USED, BY A CLIENT OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF (i) AVOIDING PENALTIES THAT MAY BE IMPOSED ON ANY TAXPAYER OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY MATTERS ADDRESSED HEREIN.

However, if our services will rise to the level of a Covered Opinion, we will issue a separate engagement letter for the issuance of a Covered Opinion.

Fees

I. Tax Compliance Services

Our fee for tax compliance services will be based on the actual time incurred to complete the work at 70% of our standard hourly rates for the individuals involved in providing the services. We will also bill you an administrative recovery fee equal to 11.5% of our undiscounted standard hourly rates for the time incurred in completing this engagement.

We will endeavor to notify you if we encounter any circumstances that warrant additional time or expense. If such matters exceed the scope of this engagement letter, we will issue an addendum



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January 6, 2011

or separate engagement letters to confirm the scope and related terms of any additional engagements.

Our fees for tax compliance services will be billed as work is performed.

II. Tax Consulting Services

Our fees for any tax consulting services under this engagement will be based on the actual time incurred to complete the work at 80% of our standard hourly rates for the individuals involved in providing the services. We will also bill you an administrative recovery fee equal to 11.5% of our undiscounted standard hourly rates for the time incurred in completing this engagement.

Our fees for tax consulting services will be billed as incurred.

Consent to Disclose and Use Tax Return Information

Federal law prohibits our disclosing, without your consent, your tax return information to third parties (such as one or more KPMG International Member Firms or to KPMG LLP's India-based returns processing center, the "Q-Center") or our use of that information for purposes other than the preparation of your return. In executing this engagement letter, you authorize KPMG LLP to disclose your tax return information to [identify other KPMG International member firms] or [to the Q-Center] or such other third party service providers as you may request or as may be required for purposes of completing the services under this engagement letter (including, but not limited to, the processing of your return). Your consent will be valid until such time as we have completed the services described in, and any services that are ancillary to, those described in this engagement letter.

* * *

The attached Standard Terms and Conditions for Advisory and Tax Services (Standard Terms and Conditions) are made a part of this engagement letter, except as modified hereunder. In accordance with the terms of this engagement letter, the following modifications to the attached Standard Terms and Conditions are agreed to:

Section 6: Limitation of Damages, the first sentence is modified in its entirety to read as follows: "Except for the respective indemnification obligations of Client and KPMG set forth herein, the liability of the Client Parties and the KPMG Parties to one another, on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Engagement Letter shall be limited to two (2) times the fees paid or owing to KPMG under the Engagement Letter."



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January 6, 2011

Further, Section 6 is modified to exclude any limitation on damages resulting from KPMG's willful misconduct.

Please sign the enclosed copy of this engagement letter to confirm our agreement and return it to us, preferably within 30 days.

Unless otherwise terminated, modified, or superseded in writing, this engagement letter is intended to apply for a period of 15 months from the date of signing by the client. In addition, effective as of the date of signing, this engagement letter supersedes any and all previously issued engagement letters pertaining to the services described above.

If you have any questions, please call me.

Very truly yours,

KPMG LLP

A handwritten signature in black ink that reads 'Mary C. Grande'.

Mary C. Grande
Partner

Enclosures:
Standard Terms and Conditions for Advisory and Tax Services



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Arcapita Bank B.S.C. (c)
January 6, 2011

ACCEPTED:

Arcapita Bank B.S.C. (c)


Authorized Signature

Executive Director
Title

January 18, 2011
Date



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Arcapita Bank B.S.C. (c)

January 6, 2011

EXHIBIT A

U.S. Assisted Living Facilities III, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 California Form 100: California Franchise/Income Tax Return
- 2010 Colorado Form 112: Colorado State C Corporation Income Tax Return
- 2010 Illinois Form IL-1120: Illinois Corporation Income and Replacement Tax Return
- 2010 Maine Form 1120ME: Maine Corporate Income Tax Return
- 2010 Maryland Form 500: Maryland Corporation Income Tax Return
- 2010 Massachusetts Form 355: Business or Manufacturing Corporation Excise Return
- 2010 Minnesota Form M-4: Minnesota Corporation Franchise Tax
- 2010 Missouri Form MO-1120: Missouri Corporation Income Tax Return
- 2010 New Jersey Form CBT-100: New Jersey Corporation Business Tax Return
- 2010 New York Form CT-3: New York General Business Corporation Franchise Tax Return
- 2010 New York Form CT-3M/4M: New York State General Corporation MTA Surcharge Return

Orlando Conversion Property, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 Florida Form F-1120: Florida Corporation Income and Emergency Excise Tax Return



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Orlando Development Property, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 Florida Form F-1120: Florida Corporation Income and Emergency Excise Tax Return

Orlando Residential Holding Company, LLC

- 2010 Federal Form 1065: U.S. Return of Partnership Income
- 2010 Florida Form F-1065: Florida Partnership Return of Income

Longwood Holding Company, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 Massachusetts Form 355: Business or Manufacturing Corporation Excise Return

La Mesa Holding Company, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 California Form 100: California Franchise/Income Tax Return



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Chicago Condo Funding Corp.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 Illinois Form IL-1120: Illinois Corporation Income and Replacement Tax Return

U.S. Senior Living Funding, Inc. & Subs

- 2010 Federal Form 1120: Consolidated U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 Arizona Form 120: Combined Arizona Corporation Income Tax Return
- 2010 California Form 100W: Combined California Franchise/Income Tax Return-Water's-Edge Filers
- 2010 Florida Form F-1120: Consolidated Florida Corporation Income and Emergency Excise Tax Return
- 2010 Illinois Form IL-1120: Combined Illinois Corporation Income and Replacement Tax Return
- 2010 New York Form CT-3-A: New York General Business Corp. Combined Franchise Tax Return
- 2010 New York Form CT-3M/4M: Combined New York State General Corporation MTA Surcharge Return
- 2010 Oklahoma Form 512: Combined Oklahoma Corporation Income Tax Returns
- 2010 Virginia Form 500: Combined Virginia Corporation Income Tax Return

U.S. Senior Living Funding, Inc.

- 2010 Missouri Form MO-1120: Missouri Corporation Income Tax Return
- 2010 North Carolina Form CD-405: North Carolina Corporation Tax Return
- 2010 Oklahoma Form 200: Oklahoma Annual Franchise Tax Return



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USSLF Subco, Inc.

- 2010 Missouri Form MO-1120: Missouri Corporation Income Tax Return
- 2010 North Carolina Form CD-405: North Carolina Corporation Tax Return
- 2010 Oklahoma Form 200: Oklahoma Annual Franchise Tax Return

U.S. Senior Living, LLC.

- 2010 California Form 568: California Limited Liability Company Return of Income

Outlet Center Funding, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 California Form 100: California Franchise/Income Tax Return
- 2010 Georgia Form 600: Georgia Corporation Income Tax and Net Worth Tax Return
- 2010 Minnesota Form M-4: Minnesota Corporation Franchise Tax
- 2010 Missouri Form MO-1120: Missouri Corporation Income Tax Return

Waverly Properties Holding Company, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 New York Form CT-3: New York General Business Corporation Franchise Tax Return
- 2010 New York Form CT-3M/4M: New York State General Corporation MTA Surcharge Return
- 2010 New York City Form NYC-3L: New York City General Corporation Tax return



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January 6, 2011

Palatine Properties Holding Company, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 Illinois Form IL-1120: Illinois Corporation Income and Replacement Tax Return

OSP Holding Company, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 Colorado Form 112: Colorado State C Corporation Income Tax Return

Aspen Valley Ranch Holding Company, Inc.

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return
- 2010 Federal Form 1042: Annual Withholding Return for U.S. Income of Foreign Persons (if applicable)
- 2010 Federal Forms 1042-T and 1042-S: Annual Summary and Transmittal Forms (if applicable)
- 2010 Colorado Form 112: Colorado State C Corporation Income Tax Return

Pond Bay Holding Company Limited

- 2010 Federal Form 1120: U.S. Corporation Income Tax Return

KPMG LLP
Standard Terms and Conditions for Advisory and Tax Services

1. **Services; Client Responsibilities.**
 - (a) References herein to Client shall refer to the addressee of the Proposal or Engagement Letter to which these Standard Terms and Conditions are attached or incorporated (the "Engagement Letter") and references herein to KPMG shall refer to KPMG LLP, a Delaware registered limited liability partnership and the United States member firm of KPMG International Cooperative (KPMG International), a Swiss entity. Client, its parent company and their affiliates, and their respective directors, officers, employees, and agents are collectively referred to herein as the "Client Parties." KPMG, any member firm of KPMG International referred to in Paragraph 15(a) below, and their affiliates, and their respective partners, principals, employees, and agents are collectively referred to herein as the "KPMG Parties."
 - (b) It is understood and agreed that KPMG's services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, Client. KPMG will not perform management functions or make management decisions for Client.
 - (c) If KPMG audits the financial statements of Client or provides any other attestation services to Client, the rules of the American Institute of Certified Public Accountants ("AICPA") require Client to agree to the following provisions of this Paragraph 1(c). In connection with KPMG's provision of services under the Engagement Letter, Client agrees that Client, and not KPMG, shall perform the following functions: (i) make all management decisions and perform all management functions; (ii) designate an individual who possesses suitable skill, knowledge and experience, preferably within senior management, to oversee such services, and to evaluate the adequacy and results of such services; (iii) accept responsibility for the results of such services; and (iv) establish and maintain internal controls over the processes with which such services are concerned, including monitoring on-going activities.
 - (d) Subsequent to the completion of this engagement, KPMG will not update its advice, recommendations or work product for changes or modifications to the law and regulations, or to the judicial and administrative interpretations thereof, or for subsequent events or transactions, unless Client separately engages KPMG to do so in writing after such changes or modifications, interpretations, events or transactions.
2. **Tax on Services.** All fees, charges and other amounts payable to KPMG under the Engagement Letter do not include any sales, use, excise, value added or other applicable taxes, tariffs or duties, payment of which shall be Client's sole responsibility, excluding any applicable taxes based on KPMG's net income or taxes arising from the employment or independent contractor relationship between KPMG and its personnel.
3. **Termination.** Either party may terminate the Engagement Letter at any time by giving written notice to the other party not less than 30 calendar days before the effective date of termination.
4. **Ownership and Use of Deliverables.**
 - (a) KPMG has created, acquired, owns or otherwise has rights in, and may, in connection with the performance of services under the Engagement Letter, use, provide, modify, create, acquire or otherwise obtain rights in, (i) concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and software and (ii) the general elements of style, design, art work and graphics and content of general applicability included in KPMG's Deliverables (as defined below) or work product not specific to Client or the services under the engagement letter (collectively, the "KPMG Property"). KPMG retains all ownership and use rights in the KPMG Property. Client shall acquire no rights or interest in the KPMG Property, except as expressly provided in the next paragraph. KPMG acknowledges that KPMG Property shall not include any of Client's confidential information or tangible or intangible property, and KPMG shall have no ownership rights in such property.
 - (b) Except for KPMG Property, and upon full and final payment to KPMG under the Engagement Letter, the tangible items specified as deliverables or work product in the Engagement Letter including any intellectual property rights appurtenant thereto (the "Deliverables") will become the property of Client. If any KPMG Property is contained in any of the Deliverables, KPMG hereby grants Client a royalty-free, paid-up, non-exclusive, perpetual license to use such KPMG Property in connection with Client's use of the Deliverables. Client acknowledges and agrees that KPMG shall have the right to retain for its files copies of each of the Deliverables.
 - (c) Client acknowledges and agrees that any advice, recommendations, information, Deliverables or other work product provided to Client by KPMG in connection with the services under the Engagement Letter is intended for Client's sole benefit and KPMG does not authorize any other party to rely upon such advice, recommendations, information, Deliverables or other work product and any such reliance shall be at such party's sole risk. Client agrees that if it makes such advice, recommendations, information or work product available to any third party other than as expressly permitted by the Engagement Letter the provisions of Paragraph 8(b) shall apply unless Client provides the written notice to the third party in substantially the form of Appendix A hereto (the "Notice"), which Notice shall be acknowledged in writing by such third party and returned to Client. Upon request, Client shall provide KPMG with a copy of the foregoing Notice and acknowledgement and any notice and acknowledgement sent to Client by such third party as contemplated by the Notice. Client may only make a Deliverable bearing the "KPMG" name or logo available to a third party in its entirety. Notwithstanding the foregoing, (i) in the event of a disclosure made by Client that is required by law, that is made to a regulatory authority having jurisdiction over Client or that is made pursuant to Paragraph 18(a) below, no acknowledgement of the Notice shall be required and (ii) no Notice or acknowledgement shall be required with respect to disclosures expressly authorized by the Engagement Letter.

KPMG LLP
Standard Terms and Conditions for Advisory and Tax Services

5. **Warranties.** KPMG's services under the Engagement Letter are subject to and will be performed in accordance with AICPA and other professional standards applicable to the services provided by KPMG under the Engagement Letter and in accordance with the terms thereof. KPMG disclaims all other warranties, either express or implied.
6. **Limitation on Damages.** Except for the respective indemnification obligations of Client and KPMG set forth herein, the liability of the Client Parties and the KPMG Parties to one another, on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Engagement Letter shall be limited to the amount of fees paid or owing to KPMG under the Engagement Letter. In no event shall any of the Client Parties or any of the KPMG Parties be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). The provisions of this Paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss asserted, whether in contract, statute, tort (including but not limited to negligence) or otherwise.
7. **Infringement.**
- (a) KPMG hereby agrees to indemnify, hold harmless and defend the Client Parties from and against any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), fines, penalties, taxes or damages (collectively "Liabilities") asserted by a third party against Client to the extent such Liabilities result from the infringement by the Deliverables (including any KPMG Property contained therein) of such third party's patents issued as of the date of the Engagement Letter, trade secrets, trademarks or copyrights. The preceding indemnification shall not apply to any infringement to the extent arising out of (i) use of the Deliverables other than in accordance with applicable documentation or instructions supplied by KPMG or other than for Client's internal business purposes; (ii) any alteration, modification or revision of the Deliverables not expressly agreed to in writing by KPMG; or (iii) the combination of the Deliverables with materials not supplied or approved by KPMG.
- (b) In case any of the Deliverables (including any KPMG Property contained therein) or any portion thereof is held, or in KPMG's reasonable opinion is likely to be held, to constitute infringement, KPMG may, within a reasonable time, at its option either: (i) secure for Client the right to continue the use of such infringing item; or (ii) replace, at KPMG's sole expense, such item with a substantially equivalent non-infringing item or modify such item so that it becomes non-infringing. In the event KPMG is, in its reasonable discretion, unable to perform either of the options described in clauses (i) or (ii) above, Client shall return the allegedly infringing item to KPMG, and KPMG's sole liability shall be to refund to Client the amount paid to KPMG for such item; provided that the foregoing shall not be construed to limit KPMG's indemnification obligation set forth in Paragraph 7(a) above.
- (c) The provisions of this Paragraph 7 state KPMG's entire liability and Client's sole and exclusive remedy with respect to any infringement or claim of infringement.
8. **Indemnification.**
- (a) KPMG agrees to indemnify, hold harmless and defend the Client Parties from and against any and all Liabilities for physical injury to, or illness or death of, any person regardless of status, and damage to or destruction of any tangible property, which any of the Client Parties may sustain or incur, to the extent such Liabilities result from the negligence or willful misconduct of the KPMG Parties. Client agrees to indemnify, hold harmless and defend the KPMG Parties from and against any and all Liabilities for physical injury to, or illness or death of, any person regardless of status, and damage to or destruction of any tangible property, which any of the KPMG Parties may sustain or incur, to the extent such Liabilities result from the negligence or willful misconduct of the Client Parties.
- (b) In accordance with Paragraph 4(c), Client agrees to indemnify, defend and hold harmless the KPMG Parties from and against any and all Liabilities incurred or suffered by or asserted against any of the KPMG Parties in connection with a third party claim to the extent resulting from such party's reliance upon KPMG's advice, recommendations, information or work product as a result of Client's disclosure of such advice, recommendations, information or work product without adhering to the notice requirements of Paragraph 4(c) above. The foregoing indemnification obligation shall apply regardless of whether the third party claim alleges a breach of contract, violation of statute or tort (including without limitation negligence) by KPMG.
- (c) The party entitled to indemnification (the "Indemnified Party") shall promptly notify the party obligated to provide such indemnification (the "Indemnifying Party") of any claim for which the Indemnified Party seeks indemnification. The Indemnifying Party shall have the right to conduct the defense or settlement of any such claim at the Indemnifying Party's sole expense, and the Indemnified Party shall cooperate with the Indemnifying Party. The party not conducting the defense shall nonetheless have the right to participate in such defense at its own expense. The Indemnified Party shall have the right to approve the settlement of any claim that imposes any liability or obligation other than the payment of money damages.
9. **Cooperation; Use of Information.**
- (a) Client agrees to cooperate with KPMG in the performance of the services under the Engagement Letter and shall provide or arrange to provide KPMG with timely access to and use of the personnel, facilities, equipment, data and information necessary for KPMG to perform the services under the Engagement Letter. The Engagement Letter may set forth additional details regarding Contractor's access to and use of personnel, facilities, equipment, data and information.
- (b) The Engagement Letter may set forth additional obligations of Client in connection with the services under the Engagement Letter. Client acknowledges that its failure to perform these

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obligations could adversely affect KPMG's ability to provide the services under the Engagement Letter.

- (c) Client acknowledges and agrees that KPMG will, in performing the services under the Engagement Letter, base its conclusions on the facts and assumptions that Client furnishes and that KPMG may use data, material, and other information furnished by or at the request or direction of Client without any independent investigation or verification and that KPMG shall be entitled to rely upon the accuracy and completeness of such data, material and other information. Inaccuracy or incompleteness of such data, material and other information furnished to KPMG could have a material adverse effect on KPMG's conclusions.

10. **Independent Contractor.** It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is or shall be considered an agent, distributor or representative of the other. Neither party shall act or represent itself, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

11. **Confidentiality.**

- (a) "Confidential Information" means all documents, software, reports, data, records, forms and other materials obtained by one party (the "Receiving Party") from the other party (the "Disclosing Party") or at the request or direction of the Disclosing Party in the course of performing the services under the Engagement Letter: (i) that have been marked as confidential; (ii) whose confidential nature has been made known by the Disclosing Party to the Receiving Party; or (iii) that due to their character and nature, a reasonable person under like circumstances would treat as confidential. Notwithstanding the foregoing, Confidential Information does not include information which: (1) is already known to the Receiving Party at the time of disclosure by the Disclosing Party; (2) is or becomes publicly known through no wrongful act of the Receiving Party; (3) is independently developed by the Receiving Party without benefit of the Disclosing Party's Confidential Information; (4) relates to information provided by KPMG relating to the tax treatment or tax structure of any transaction, (5) the Receiving Party determines is required to be maintained or disclosed by the Receiving Party under sections 6011, 6111 or 6112 of the Internal Revenue Code ("IRC") or the regulations thereunder or under any similar or analogous provisions of the laws of a state or other jurisdiction or (6) is received by the Receiving Party from a third party without restriction and without a breach of an obligation of confidentiality.
- (b) The Receiving Party will deliver to the Disclosing Party or destroy all Confidential Information of the Disclosing Party and all copies thereof when the Disclosing Party requests the same, except for copies retained in work paper files or records, anything that may be stored in back up media or other electronic data storage systems, latent data and metadata. The Receiving Party shall not use or disclose to any person, firm or entity any Confidential Information of the Disclosing Party without the Disclosing Party's express, prior written permission; provided, however, that notwithstanding the foregoing, the Receiving Party

may disclose Confidential Information to the extent that it is required or necessary to be disclosed pursuant to a statutory or regulatory provision or court or administrative order, to fulfill professional obligations and standards (including quality and peer review) or to submit and process an insurance claim. Further, KPMG may aggregate Client information with information from other sources in connection with thought leadership projects, to improve the delivery of services to clients and to allow clients to evaluate various business transactions and opportunities. KPMG will only use this information without attribution to Client and under circumstances where Client will not be identified as the source of the information.

- (c) Each party shall be deemed to have met its nondisclosure obligations under this Paragraph 11 as long as it exercises the same level of care to protect the other's information as it exercises to protect its own confidential information but in no event less than reasonable care, except to the extent that applicable law or professional standards impose a higher requirement.

- (d) If the Receiving Party receives a subpoena or other validly issued administrative or judicial demand requiring it to disclose the Disclosing Party's Confidential Information, the Receiving Party shall provide prompt written notice to the Disclosing Party of such demand in order to permit it to seek a protective order. So long as the Receiving Party gives notice as provided herein, the Receiving Party shall be entitled to comply with such demand to the extent required by law, subject to any protective order or the like that may have been entered in the matter. In the event the Receiving Party is requested to testify or produce its documents relating to the services under the Engagement Letter pursuant to subpoena or other legal process in judicial or administrative proceedings to which it is not a party, or in connection with an informal inquiry or investigation with the consent of the Disclosing Party, the Disclosing Party shall reimburse the Receiving Party for its time and expenses, including reasonable attorney's fees, incurred in responding to such requests.

12. **Assignment.** Subject to Paragraph 15 below, neither party may assign, transfer or delegate any of its rights or obligations without the prior written consent of the other party, such consent not to be unreasonably withheld.

13. **Governing Law; Severability.** The Engagement Letter and these Standard Terms and Conditions shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws provisions. In the event that any term or provision of the Engagement Letter or these terms shall be held to be invalid, void or unenforceable, then the remainder of the Engagement Letter and these terms shall not be affected, and each such term and provision shall be valid and enforceable to the fullest extent permitted by law.

14. **Alternative Dispute Resolution.**

- (a) Any dispute or claim arising out of or relating to the Engagement Letter between the parties or the services provided thereunder shall be submitted first to non-binding mediation (unless either party elects to forego mediation by initiating a written request for

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arbitration) and if mediation is not successful within 90 days after the issuance by one of the parties of a request for mediation then to binding arbitration in accordance with the Rules for Non-Administered Arbitration of the International Institute for Conflict Prevention and Resolution (the "IICPR"). Any issue concerning the extent to which any dispute is subject to arbitration, or any dispute concerning the applicability, interpretation, or enforceability of these dispute resolution procedures, including any contention that all or part of these procedures is invalid or unenforceable, shall be governed by the Federal Arbitration Act and resolved by the arbitrators. By operation of this provision, the parties agree to forego litigation over such disputes in any court of competent jurisdiction.

- (b) Mediation, if selected, may take place at a location to be designated by the parties using the Mediation Procedures of the IICPR, with the exception of paragraph 2 (Selecting the Mediator).
- (c) Arbitration shall take place in New York, New York. The arbitration panel shall have no power to award non-monetary or equitable relief of any sort except as provided in IICPR Rule 13 (Interim Measures of Protection). Damages that are inconsistent with any applicable agreement between the parties, that are punitive in nature, or that are not measured by the prevailing party's actual damages shall be unavailable in arbitration or any other forum. In no event, even if any other portion of these provisions is held to be invalid or unenforceable, shall the arbitration panel have power to make an award or impose a remedy that could not be made or imposed by a court deciding the matter in the same jurisdiction.
- (d) Either party may seek to enforce any written agreement reached by the parties during mediation, or to confirm and enforce any final award entered in arbitration, in any court of competent jurisdiction.
- (e) Notwithstanding the agreement to such procedures, either party may seek equitable relief to enforce its rights in any court of competent jurisdiction.

15 Use of Member Firms, Affiliates and Third Party Service Providers.

- (a) To the extent any of the services under the Engagement Letter will be performed in or relate to a jurisdiction outside of the United States, Client acknowledges and agrees that such services, including any applicable tax advice, may be performed by a member firm of KPMG International practicing in such jurisdiction. Client understands that KPMG International and each such member firm is a separate, distinct and independent legal entity and is not a partner, principal, agent or affiliate of KPMG and KPMG is not a partner, principal, agent or affiliate of KPMG International or any such member firm.
- (b) Client further acknowledges that (i) in connection with the performance of services under the Engagement Letter, KPMG, in its discretion or at Client's direction, may utilize the services of affiliates and third party service providers within and without the United States to complete the services under the Engagement

Letter, and (ii) KPMG uses third party service providers within and without the United States to provide at KPMG's direction administrative and clerical services to KPMG.

- (c) Accordingly, Client consents to KPMG's disclosure to a member firm, affiliate or third party service provider and such member firm's, affiliate's and third party service provider's use of data and information, including but not limited to Confidential Information and "tax return information" within the meaning of Treasury Regulations section 301.7216-1(b)(3) (or a successor provision), received from or at the request or direction of Client for the purposes set forth in Paragraph 15(b) above.
- (d) Any services performed by a member firm, affiliate or third party service provider shall satisfy the terms of the Engagement Letter and KPMG shall remain responsible to Client for the performance of such services. Client agrees that any claim relating to the services under the Engagement Letter may only be made against KPMG and not any other member firm, affiliate or third party service provider referred to above.

16. Miscellaneous.

- (a) **Sarbanes-Oxley.** Except as otherwise set forth in the Engagement Letter, in accepting this engagement, Client acknowledges that completion of this engagement or acceptance of Deliverables resulting from this engagement will not constitute a basis for Client's assessment or evaluation of internal control over financial reporting and disclosure controls and procedures, or its compliance with its principal officer certification requirements under Section 302 of the Sarbanes-Oxley Act of 2002 (the "Act"). The services under the Engagement Letter shall not be construed to support Client's responsibilities under Section 404 of the Act requiring each annual report filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 to contain an internal control report from management.
- (b) **Electronic Communications.** KPMG and Client may communicate with one another by electronic mail or otherwise transmit documents in electronic form during the course of this engagement. Each party accepts the inherent risks of these forms of communication (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices). Client agrees that the final hardcopy version of a document or other communication that KPMG transmits to Client shall supersede any previous versions or communications transmitted electronically by KPMG to Client unless no such hard copy is transmitted.
- (c) **California Accountancy Act.** For engagements where services will be provided by KPMG through offices located in California, Client acknowledges that certain of KPMG's personnel who may be considered "owners" under the California Accountancy Act and implementing regulations (California Business and Professions Code section 5079(a); 16 Cal. Code Regs. sections 51 and 51.1) and who may provide services in connection with this engagement, may not be licensed as certified public accountants under the laws of any of the various states.

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- (d) **Volume Rebates.** Where KPMG is reimbursed for expenses, it is KPMG's policy to bill clients the amount incurred at the time the good or service is purchased. If KPMG subsequently receives a volume rebate or other incentive payment from a vendor relating to such expenses, KPMG does not credit such payment to Client. Instead, KPMG applies such payments to reduce its overhead costs, which costs are taken into account in determining KPMG's standard billing rates and certain transaction charges that may be charged to clients.
- (e) **Use of Names and Logos.** Except as permitted by law or the terms of the Engagement Letter, neither party shall acquire hereunder any right to use the name or logo of the other party or any part thereof. Any such use shall require the express written consent of the owner party.
- (f) **Privileged Communications.** Information relating to advice KPMG provides to Client, including communications between KPMG and Client and material KPMG creates in the course of providing advice, may be privileged and protected from disclosure to the IRS or other governmental authority in certain circumstances. As KPMG is not able to assert the privilege on Client's behalf with respect to any communications for which privilege has been waived, Client agrees to promptly notify KPMG of any such waivers, whether resulting from communications with KPMG or third parties in the same or a related matter. Client also understands that privilege may not be available for communications with an audit client and that KPMG personnel providing audit and non-audit services will discuss matters that may affect the audit to the extent required by applicable professional standards. Client agrees that KPMG will not assert on Client's behalf any claim of privilege unless Client specifically instructs KPMG in writing to do so after discussing the specific request and the grounds on which such privilege claim would be made. Notwithstanding the foregoing, Client acknowledges that in no event will KPMG assert any claim of privilege that KPMG concludes, after exercising reasonable judgment, is not valid.
- (g) **Active Spreadsheets and Electronic Files.** KPMG may use models, electronic files and spreadsheets with embedded macros created by KPMG to assist KPMG in providing the services under the Engagement Letter. If Client requests a working copy of any such model, electronic file or spreadsheet, KPMG may, at its discretion, make such item available to Client for its internal use only and such item shall be considered a Deliverable subject to Paragraph 4 above; provided that Client is responsible for obtaining the right to use any third party products necessary to use or operate such item.
- (h) **Non-Solicitation.** During the term of the Engagement Letter and for one year thereafter, neither party shall solicit for hire as an employee, consultant or otherwise any of the other party's personnel who have had direct involvement with the services under the Engagement Letter, without such other party's express written consent. This prohibition shall not apply to any offers of employment which result from a general solicitation for employment, including without limitation, through the Internet, newspapers, magazines and radio.
17. **Entire Agreement.** The Engagement Letter and these Standard Terms and Conditions, including the Exhibits and Appendices hereto and thereto, constitute the entire agreement between KPMG and Client with respect to the services under the Engagement Letter and supersede all other oral and written representation, understandings or agreements relating thereto.
18. **Additional Terms for Engagements Involving Tax Services.**
- (a) Notwithstanding anything to the contrary set forth herein, no provision in the Engagement Letter or these Standard Terms and Conditions is or is intended to be construed as a condition of confidentiality within the meaning of IRC sections 6011, 6111, 6112 or the regulations thereunder, or under any similar or analogous provisions of the laws of a state or other jurisdiction. In particular, Client (and each employee, representative, or other agent of Client) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of any transaction within the scope of this engagement and all materials of any kind (including opinions and other tax analyses) that are provided to Client relating to such tax treatment and tax structure. Client also agrees to use commercially reasonable efforts to inform KPMG of any conditions of confidentiality imposed by third party advisors with respect to any transaction on which KPMG advice is requested. Such notification must occur prior to KPMG providing any advice with respect to the transaction.
- (b) Treasury regulations under IRC section 6011 require taxpayers to disclose to the IRS their participation in reportable transactions and IRC section 6707A imposes strict penalties for noncompliance. Client agrees to use commercially reasonable efforts to inform KPMG if Client is required to disclose any transaction covered by the Engagement Letter as a reportable transaction to the IRS or to any state or other jurisdiction adopting similar or analogous provisions. IRC section 6111 requires a material advisor with respect to a reportable transaction to disclose information on the transaction to the IRS by a prescribed date, and IRC section 6112 requires the material advisor to maintain, and make available to the IRS upon request, a list of persons and other information with respect to the transaction. KPMG will use commercially reasonable efforts to inform Client if KPMG provides Client's identifying information to the IRS under IRC section 6111 or 6112, or to any state or other jurisdiction adopting similar or analogous provisions.
- (c) Unless expressly provided for, KPMG's services do not include representing Client in the event of a challenge by the IRS or other tax or revenue authorities.
- (d) In rendering tax advice, KPMG may consider, for example, the applicable provisions of the Internal Revenue Code of 1986, and the Employee Retirement Income Security Act of 1974, each as amended, and the relevant state, local and foreign statutes, the regulations thereunder, income tax treaties, and judicial and administrative interpretations, thereof. These authorities are subject to change, retroactively or prospectively, and any such changes could affect the validity of KPMG's advice.

APPENDIX A

[FORM OF NOTICE AND ACKNOWLEDGEMENT]

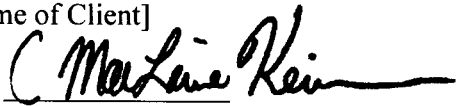
[Name of Third Party]
Address

The advice, recommendations and information in the document included with this notice were prepared for the sole benefit of [Name of Client], based on the specific facts and circumstances of [Name of Client], and its use is limited to the scope of KPMG's engagement for [Name of Client]. It has been provided to you for informational purposes only and you are not authorized by KPMG to rely upon it and any such reliance by you or any one else shall be at your or their own risk. You acknowledge and agree that KPMG accepts no responsibility or liability in respect of the advice, recommendations or other information in such document to any person or organization other than [Name of Client]. You shall have no right to disclose the advice, recommendations or other information in such document to anyone else without including a copy of this notice and, unless disclosure is required by law or to fulfill a professional obligation required under applicable professional standards, obtaining a signed acknowledgement of this notice from the party to whom disclosure is made and you provide a copy thereof to [Name of Client]. You acknowledge and agree that you will be responsible for any damages suffered by KPMG as a result of your failure to comply with the terms of this notice.

Please acknowledge your acceptance of the foregoing by signing and returning to us a copy of this letter.*

Very truly yours,

[Name of Client]

By: 
Name: C. Maclaine Keran
Title: Executive Director

Accepted and Agreed to on this 18 day of Jan, 2011 by:*

[Name of Third Party]

By: _____
Name:
Title:

*Remove in the event of a disclosure made by Client that is required by law, that is made to a regulatory authority having jurisdiction over Client or that is made pursuant to Paragraph 18(a) of the Standard Terms and Conditions in which case an acknowledgement is not required by the terms of Paragraph 4(c).

EXHIBIT C
Declaration of Mary C. Grande

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

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

**DECLARATION OF MARY C. GRANDE IN SUPPORT OF THE DEBTORS’
APPLICATION TO RETAIN AND EMPLOY KPMG LLP (US) AS TAX
CONSULTANTS NUNC PRO TUNC TO THE PETITION DATE**

I, Mary C. Grande, being duly sworn, deposes and says:

1. I am a Certified Public Accountant and a partner of KPMG LLP, a professional services firm (“*KPMG-US*”). KPMG-US is the United States member firm of KPMG International, a Swiss cooperative. I submit this declaration on behalf of KPMG-US in support of the application (the “*Application*”)³ of the above-captioned Debtors and Debtors in Possession (the “*Debtors*”), for entry of an order, pursuant to section 327(a) of title 11 of the United States Code (the “*Bankruptcy Code*”), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of New York (the “*Local Rules*”), authorizing the Debtors to retain and employ KPMG-US as tax consultants to the Debtors *nunc pro tunc* to the Petition Date. I have personal knowledge of the matters set forth herein.⁴

³ Capitalized terms used herein but not otherwise defined shall have those meanings set forth in the Application.

⁴ Certain of the disclosures herein relate to matters within the knowledge of other professionals at KPMG.

QUALIFICATIONS OF PROFESSIONALS

2. KPMG-US is a firm of independent public accountants as defined under the Code of Professional Conduct of the American Institute of Certified Public Accountants.

3. The Debtors have selected KPMG-US as their tax consultants because of the firm's diverse experience and extensive knowledge in the fields of accounting, taxation, and operational controls for large sophisticated companies both in chapter 11 as well as outside of chapter 11.

4. The Debtors have employed KPMG-US for approximately twelve years. By virtue of its prior engagements, KPMG-US is familiar with the books, records, financial information and other data maintained by the Debtors and is qualified to continue to provide services to the Debtors. KPMG-US will coordinate closely with the other retained professionals to avoid the duplication of services. As such, KPMG-US will be able to perform the services as set forth in the engagement letters (collectively the "*Engagement Letter*") between the Debtors and KPMG-US annexed hereto as Exhibit B in an efficient and cost effective manner.

SERVICES TO BE RENDERED

5. Subject to approval of the Application, pursuant to the Engagement Letter, will provide tax consulting services to the Debtors, including, but not limited to the following:

- a) Reviewing and assisting in the preparation and filing of federal and state and local corporate tax returns and supporting schedules, including preliminary engagement planning activities related to the tax returns for the immediately succeeding tax year;
- b) Determining the corporations' quarterly estimated tax payments for the 2012 tax year;

- c) Reviewing and assisting in the preparation of amended federal and state tax returns on U.S. Senior Living Funding, Inc. and USSLF Subco, Inc. for the year ended December 31, 2009.
- d) Consulting on tax matters that may arise for which the Debtors seek our advice, both written and oral; and
- e) Performing other such functions as requested by the Debtors or their counsel to assist the Debtors in its business and reorganization.

6. In addition to the foregoing, KPMG-US will provide such other consulting, advice, research, planning, and analysis regarding tax consulting services as may be necessary, desirable or requested from time to time.⁵

7. Subject to this Court's approval of the Application, KPMG-US is willing to serve as the Debtors' tax consultants and to perform the services described above.

DISINTERESTEDNESS OF PROFESSIONALS

8. Based upon information supplied by Debtors' counsel, KPMG-US searched its client database from May 2, 2005 and forward to identify any connection or relationship with the parties listed on Schedule "1," attached hereto and incorporated herein, which lists the following categories:

- (a) Debtor and Non-Debtor Affiliates;

⁵ Although, by this Application, the Debtors are seeking to retain KPMG to provide such other consulting, advice, research, planning, analysis regarding tax consulting services as may be necessary, desirable or requested from time to time, internal KPMG procedures require that KPMG enter into additional engagement letters for additional work under certain circumstances. To the extent the Debtors request additional services not covered by the Engagement Letters, KPMG and the Debtors may enter into additional engagement letters, as is necessary, and file, for disclosure purposes, such additional engagement letters with the Court. Unless required by the Court, the Debtors and KPMG do not intend to seek separate retention orders with regard to any additional engagement letters. Instead, any additional engagement letters will be filed with the Court and served on the applicable notice parties, absent any objections filed within fourteen (14) days after the filing and service of such supplemental declarations or affidavits, KPMG's employment shall continue as authorized pursuant to the Proposed Order.

- (b) Debtors' Prepetition and Postpetition Secured Bank Lenders, Advisors and Counsel;
- (c) Holders of more than 5% of the Debtors' Equity Securities;
- (d) Debtors' Current Officers, Directors, and Board Members in the past two years;
- (e) Professionals to be employed by the Debtors;
- (f) Debtors' 50 Largest Unsecured Creditors on a consolidated basis;
- (g) Ordinary Course Professionals;
- (h) Landlords;
- (i) Utility Providers;
- (j) Insurers and Insurance Brokers;
- (k) List of Bank Accounts;
- (l) 50 Largest Customers;
- (m) 50 Largest Vendors;
- (n) Parties relating to Significant Litigation; and
- (o) Parties to Executory Contracts.

9. KPMG-US's review consisted of queries of an internal computer database containing names of individuals and entities that are present or recent and former clients of KPMG-US in order to identify potential relationships.⁶ This database includes engagement activity or potential engagement activity from May 2, 2005 forward. A summary of those

⁶ As set forth in paragraph 15, KPMG is the United States member firm of KPMG International, a Swiss cooperative of independent member firms. While KPMG is a separate and distinct legal entity from all other member firms of KPMG International, in an attempt to identify conflicts among or between KPMG International member firms, KPMG International has a global conflict internal computer database related to the engagement activity or potential engagement activity of a majority of such member firms since May 2, 2005 that allows KPMG International member firms to identify potential conflicts between other KPMG International member firms. Financial information pertaining to engagement activity is the proprietary and confidential information of each individual member firm and KPMG does not have any legal right to access, or if accessed, disclose, such information relating to other KPMG International member firms.

current potential relationships that KPMG-US was able to identify using its reasonable efforts is reflected in Schedule “2” attached hereto.⁷ On an ongoing basis, KPMG-US will conduct further reviews of its professional contacts as it becomes aware of new parties of interest, as is stated below. To the best of my knowledge and based upon the results of the relationship search described above and disclosed herein, KPMG-US neither holds nor represents an interest adverse to the Debtors’ estates that would impair KPMG-US’s ability to objectively perform professional services for the Debtors, in accordance with section 327 of the Bankruptcy Code.

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

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

11. As of the date the Debtors filed for bankruptcy protection, KPMG-US was not a “creditor” of the Debtors within the meaning of section 101(10) of the Bankruptcy Code.

12. To the best of my knowledge, except as set forth herein and in Schedule “2” attached hereto and incorporated herein by reference or described herein, (a) KPMG-US has no connections with the creditors, any other party-in-interest, or their respective attorneys and accountants; and (b) the KPMG-US partners and professionals working on this matter are not relatives of and have no known connection with the United States Trustee of the Southern

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

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

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

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

15. KPMG-US is the United States member firm of KPMG International, a Swiss cooperative of member firms, each a separate legal entity, located worldwide. Only KPMG-US is being retained in this matter. KPMG-US cannot assure that an engagement will not be accepted by a foreign member firm of KPMG International for another party that may bear upon KPMG-US's engagement by the Debtors. However, to the extent KPMG-US is aware of such engagement and believes such engagement may bear upon KPMG-US's engagement by the Debtors, KPMG-US will file a supplemental declaration with the Bankruptcy Court. The member of KPMG International which includes the United Kingdom ("*KPMG-UK*") is being

engaged by the Debtors in this bankruptcy proceeding, and will file a declaration in connection with that engagement. The services to be provided by KPMG-UK are unrelated to this application. KPMG-US understands that KPMG-UK may use the services of KPMG-US professionals in connection with the KPMG-UK engagement, and if so, will seek payment for such services through fee applications to be prepared and filed by KPMG-UK. The member firm of KPMG International based in Germany (“*KPMG-Germany*”) is currently advising a client that is undergoing a restructuring. In connection with that effort, KPMG-Germany is assisting that client in renegotiating its loan terms with Arcapita Bank. No KPMG-US professionals will be involved in this KPMG-Germany engagement and no professionals from KPMG-Germany will be involved in the KPMG US engagement for the Debtors. Another member firm of KPMG International is providing due diligence assistance to a potential buyer of a subsidiary of Arcapita Bank. No KPMG-US professionals will be involved in this engagement, and no professionals from this member firm will be involved in the KPMG US engagement for the Debtors.

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

PROFESSIONAL COMPENSATION

17. KPMG-US's requested compensation for professional services rendered to the Debtors will be based upon the hours actually expended by each assigned staff member at each staff member's hourly billing rate. The Debtors have agreed to compensate KPMG-US for professional services rendered at its normal and customary hourly rates, subject to the reductions discussed below.

18. The majority of fees to be charged in this engagement reflect a reduction of approximately 20% - 30% from KPMG-US's normal and customary rates, depending on the types of services to be rendered.⁸ In the normal course of KPMG-US's business, the hourly rates are subject to periodic increase. To the extent such hourly rates are increased, KPMG-US requests that, with respect to the work to be performed after such increase, the rates listed below be amended to reflect the increase. The hourly rates for tax consulting services to be rendered by KPMG-US and applicable herein are as follows:

Tax Consulting Services	Discounted Rate
Partners	\$620 - \$860
Managing Directors	\$630 - \$720
Senior Managers/Directors	\$508 - \$680
Managers	\$403 - \$492
Senior Associates	\$319 - \$364
Associates	\$245 - \$280

⁸ If in connection with any subsequent engagement letters, KPMG is retained to perform additional services at different rates, such rates will be disclosed in connection with the relevant engagement letters. As stated above, KPMG and the Debtors do not intend to seek separate retention orders with regard to any such engagement letters.

19. KPMG-US also will seek reimbursement for reasonable, necessary expenses incurred, which shall include meals, lodging, travel, photocopying, delivery service, postage, vendor charges and other out-of-pocket expenses incurred in providing professional services.

20. KPMG-US intends to apply to the Court for the allowance of compensation for professional services rendered and reimbursement of expenses incurred in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and orders of this Court. KPMG-US has agreed to accept as compensation such sums as may be allowed by the Court and understands that interim and final fee awards are subject to approval by the Court.

21. KPMG-US has agreed to modify the Engagement Letters, including the Standard Terms and Conditions attached thereto, during the course of these chapter 11 cases as set forth in the proposed order attached to the Application as Exhibit A.

22. According to KPMG-US's books and records, during the 90-day period prior to the Petition Date, KPMG-US received \$76,700 from the Debtors for professional services performed and expenses incurred. A schedule showing the payments that KPMG-US received during this period is attached as Schedule 3.

23. To the extent the Application is granted, KPMG-US has agreed to waive amounts owed for professional services rendered prior to the Petition Date.

24. No commitments have been made or received by KPMG-US with respect to compensation or payment in connection with these cases other than in accordance with the provisions of the Bankruptcy Code; and there is no agreement or understanding between KPMG-US and any other entity, other than a member, partner or regular associate of KPMG-US, for the

sharing of compensation received or to be received for services rendered in connection with these proceedings.

25. This declaration is provided in accordance with section 327 of the Bankruptcy Code, Bankruptcy Rule 2014 and Local Rule 2014-1.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of May, 2012.

/s/ Mary C. Grande

Mary C. Grande
KPMG LLP (US)
Stamford Square
3001 Summer Street
Stamford, CT 06905-4317
(203) 406-8054

SCHEDULE 1
List of Interested Parties

SCHEDULE 1

LIST OF INTERESTED PARTIES

(i) **Debtor entities:**

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

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

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

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

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

Standard Charter Bank
WestLB AG

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

Jasmine Quadrilateral Investment Corp.

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

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

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

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

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

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

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

(vii) The Debtors' ordinary course professionals:

Ernst & Young
Keypoint Consulting
Haya Rashed Al Khalifa Law Firm (law firm we use on Bahrain litigation matters so far)
Farid Hassani (Lawyer) (labor matters)

(viii) The Debtors' landlords:

Noon Investment Company (storage)

(ix) The Debtors' utility providers:

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

(x) The Debtors' insurers and insurance brokers:

Solidarity General
Marsh Ltd.

(xi) The Debtors' list of bank accounts:

JP Morgan Chase, New York
Arab Banking Corporation

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

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

(redacted)

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

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

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

(xiii) Parties relating to significant litigation to Debtors:

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

(xiv) Parties to executory contracts:

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

SCHEDULE 2
KPMG Relationships

SCHEDULE 2

KPMG RELATIONSHIPS

(i) Debtor entities:

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

Tender Loving Care Holdings Limited
US Senior Living WCF Limited

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

Standard Charter Bank
WestLB AG

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

Jasmine Quadrilateral Investment Corp.

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

N/A

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

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

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

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

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

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

Ernst & Young
Keypoint Consulting

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

Noon Investment Company (storage)

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

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

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

Solidarity General
Marsh Ltd.

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

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

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

(redacted)

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

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

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

(xiii) Parties relating to significant litigation to Debtors:

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

(xiv) Parties to executory contracts:

Shutdown Maintenance Service
MAF Dalkia Bahrain
Microsoft Bahrain
EastNets
Xerox
Honeywell

SCHEDULE 3
90 day Payment Information

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SCHEDULE 3**KPMG LLP (US)**

In re: Arcapita Bank B.S.C., et al.

PAYMENT HISTORY FOR THE 90 DAYS PRIOR TO FILING BANKRUPTCY

Invoice Number	Invoice Date	Amount Billed	Date Invoice Paid	Amount Paid
44163377	9/1/2011	2,000.00	1/31/2012	\$2,000.00
44163391	9/1/2011	3,000.00	1/31/2012	\$3,000.00
44189055	9/29/2011	4,500.00	1/31/2012	\$4,500.00
44189043	9/29/2011	6,000.00	1/31/2012	\$6,000.00
44189034	9/29/2011	6,700.00	1/31/2012	\$6,700.00
44189029	9/29/2011	4,500.00	3/14/2012	\$4,500.00
44211370	11/4/2011	50,000.00	3/14/2012	\$50,000.00

TOTAL**\$76,700.00**