

To: Goldman Sachs International (as Investment Agent)

From: RA Holdco 2 LLC (as Exit Purchaser) and RA Holdco 1 Limited (as Parent)

Date: 17 June 2014

Waiver and Consent Request – Mandatory prepayment from amounts in the Mandatory Prepayment Account

Dear Sirs,

We refer to the Superpriority Debtor-in-Possession and Exit Facility Master Murabaha Agreement, dated 13 June 2013 (as amended pursuant to amendments dated 10 July 2013, 31 July 2013 and 10 September 2013 and as further amended, modified, extended, restated, replaced or supplemented from time to time, the “**Murabaha Agreement**”) among Arcapita Investment Holdings Limited as the DIP purchaser, Goldman Sachs International as the investment agent (the “**Investment Agent**”) and the entities named as original guarantors therein.

Capitalised terms used but not defined in this letter (this “**Letter**”) shall have the meanings given to them in the Murabaha Agreement.

1. BACKGROUND

- 1.1 Pursuant to paragraph (b)(ii) of Clause 9.4 (*Proceeds*) of the Murabaha Agreement, RA Holdco 2 LLC (the “**Exit Purchaser**”) is required to use 100% of the amount of Disposal Proceeds to prepay the outstanding Facilities in accordance with the prepayment provisions in Clause 9 (*Prepayments; Facility Limit Reduction*) of the Murabaha Agreement. Clause 9 (*Prepayments; Facility Limit Reduction*) of the Murabaha Agreement provides, among other things, that (a) the Disposal Proceeds must be used to prepay the outstanding Facilities pro rata no later than five Business Days after receipt of the relevant proceeds; or (b) if the Exit Purchaser so elects, the Disposal Proceeds must be used to prepay the Facilities pro rata on the next Deferred Payment Date.
- 1.2 If the Exit Purchaser makes the election referred to in (b) of paragraph 1.1 above, in accordance with paragraphs (h) and (i) of Clause 9.6 (*Retention Account, Mandatory Prepayment Account and Holding Account*) of the Murabaha Agreement, the Exit Purchaser must ensure that the Disposal Proceeds in respect of which the election was made are paid into the Mandatory Prepayment Account as soon as reasonably practicable after receipt of such proceeds. The Mandatory Prepayment Account is subject to the Transaction Security, and the Investment Agent is authorised by the Exit Purchaser pursuant to the Murabaha Agreement to apply any amounts standing to the credit of the Mandatory Prepayment Account in prepayment of the outstanding Facilities on the next Deferred Payment Date.
- 1.3 Since the last Deferred Payment Date, members of the Group have made the following Relevant Disposals:
 - (a) a partial Disposal of the Group’s interest in ArcResidential Japan Funding Limited on 24 April 2014 (the “**ArcJapan Disposal**”);
 - (b) a Disposal of the Group’s remaining interest in Ampad Holding Corp on 28 May 2014 (the “**Ampad Disposal**”);
 - (c) a Disposal of the Group’s interest in Drillbit Holding Company Limited on 6 June 2014 (the “**Varel Disposal**”); and
 - (d) a Disposal of the Group’s interest in Victory Heights Holding Company Limited on 16 June 2014 (the “**Victory Heights Disposal**” and, together with the ArcJapan

Disposal, the Ampad Disposal and the Varel Disposal, the “**Waiver Request Disposals**”).

The Group received aggregate cash proceeds in the amount of \$51,763,169 from the Waiver Request Disposals. The Exit Purchaser confirms that each of the Waiver Request Disposals was a Permitted Disposal under the Murabaha Agreement and none of the Waiver Request Disposals were made in breach of Clause 15.14 (*Disposals*) of the Murabaha Agreement or any other provision of the Finance Documents. In respect of each Waiver Request Disposal, the Exit Purchaser elected to pay the Disposal Proceeds received from such Waiver Request Disposal to the Mandatory Prepayment Account to be applied in prepayment of the outstanding Facilities on the next Deferred Payment Date, which is on 26 June 2014.

- 1.4 As at the date of this Letter, the balance of the Mandatory Prepayment Account is \$49,977,610, which amount is equal to the aggregate amount of the Disposal Proceeds received by the Group from the Waiver Request Disposals. The aggregate Disposal Proceeds represents the total cash proceeds received by the Group in respect of the Waiver Request Disposals less the Taxes, reasonable costs and expenses and other amounts that the Exit Purchaser is permitted to deduct from such cash proceeds pursuant to (A), (B) and (C) of the definition of “Disposal Proceeds” in paragraph (a) of Clause 9.4 (*Proceeds*) of the Murabaha Agreement.
- 1.5 Before the next Deferred Payment Date, the Disposal Proceeds from a further Relevant Disposal are expected to be received by the Group and such proceeds will be transferred to the Mandatory Prepayment Account.
- 1.6 Before the amounts standing to the credit of the Mandatory Prepayment Account are applied in prepayment of the outstanding Facilities on 26 June 2014, the Exit Purchaser is requesting the consent of the Participants to withdraw from the Mandatory Prepayment Account for its own account an amount equal to:
 - (a) if at the time of the withdrawal the Disposal Proceeds referred to in paragraph 1.5 above have not been paid to the Mandatory Prepayment Account, the balance of the Mandatory Prepayment Account as referred to in paragraph 1.4 above; or
 - (b) if at the time of the withdrawal the Disposal Proceeds referred to in paragraph 1.5 above have been paid to the Mandatory Prepayment Account, \$50,000,000,

such amount, the “**Waiver Amount**”. The Exit Purchaser intends to use the Waiver Amount for the general working capital purposes of the Group.

2. REQUESTED WAIVERS

- 2.1 The purpose of this Letter is to request the consent of the requisite Participants to a waiver of certain provisions of the Finance Documents to allow the Exit Purchaser withdraw the Waiver Amount from the Mandatory Prepayment Account before the remainder of the balance of the Mandatory Prepayment Account is applied in prepayment of the outstanding Facilities on the next Deferred Payment Date. The waivers that we request are:
 - (a) a waiver of the requirements of paragraph (b)(ii) of Clause 9.4 (*Proceeds*) of the Murabaha Agreement only to the extent that it requires the Exit Purchaser to apply the Waiver Amount in prepayment of the Cost Price elements of Deferred Sale Prices;
 - (b) a waiver of the requirements of paragraph (f) of Clause 9.6 (*Retention Account, Mandatory Prepayment Account and Holding Account*) only to the extent that it requires the Facility Limit to be reduced by an amount equal to the Waiver Amount;

- (c) a waiver of the requirements of paragraph (i) of Clause 9.6 (*Retention Account, Mandatory Prepayment Account and Holding Account*) of the Murabaha Agreement only to the extent that it authorises the Investment Agent to apply the Waiver Amount in prepayment of the Cost Price elements of Deferred Sale Prices; and
- (d) a waiver of the requirements of Clause 7.3 (*Protection of Security*) of the account charge, dated 17 September 2013, among the Exit Purchaser, the Security Agent and the Investment Agent relating to the Mandatory Prepayment Account only to the extent required for the Exit Purchaser to make a one-time withdrawal of the Waiver Amount from the Mandatory Prepayment Account,

together, the “**Requested Waivers**”.

- 2.2 We seek the consent of all of the Participants to the Requested Waivers in accordance with Clause 27 (*Amendments and Waivers*) of the Investment Agency Agreement.

3. **WAIVER REQUEST**

- 3.1 Pursuant to Clause 27.3 (*Exceptions*) of the Investment Agency Agreement, the Exit Purchaser hereby requests that all of the Participants consent to Requested Waivers.
- 3.2 We request that the Investment Agent please confirm its consent, and the consent of all Participants, to the Requested Waivers promptly upon receiving confirmation from each Participant that it has consented to the Requested Waivers by executing a letter in the form set out in Schedule 1 to this Letter (the “**Consent Letter**”).
- 3.3 If the Consent Letter is executed by the Investment Agent on behalf of itself and all of the Participants by no later than Wednesday, 25 June 2014, the Exit Purchaser hereby agrees to pay, or procure that one or more other Obligors shall pay, to the Investment Agent (for the account of each Participant in the proportion that its Participation bears to the aggregate Participation of the Participants) on 26 June 2014 or, if earlier, the date on which the Investment Agent notifies the Exit Purchaser that all Participants have given their consent to the execution of the Consent Letter by the Investment Agent, a non-refundable administrative fee of 0.25% of the aggregate Participations of the Participants as at the date of the Consent Letter, which administrative fee shall be fully earned on the date of the Consent Letter. The Exit Purchaser agrees that any failure to pay such fee shall constitute an immediate Event of Default.

Please do not hesitate to contact us should you have any queries.

Yours faithfully



For and on behalf of
RA HOLDCO 2 LLC
as the Exit Purchaser



For and on behalf of
RA HOLDCO 1 LIMITED
as the Parent

SCHEDULE 1
FORM OF CONSENT LETTER

June 2014

To: RA Holdco 2 LLC (the “Exit Purchaser”)
RA Holdco 1 Limited (the “Parent”)

Dear Sirs,

Superpriority Debtor-in-Possession and Exit Facility Master Murabaha Agreement, dated 13 June 2013 (as amended pursuant to amendments dated 10 July 2013, 31 July 2013 and 10 September 2013, the “Murabaha Agreement”) among Arcapita Investment Holdings Limited as the DIP purchaser, Goldman Sachs International as the investment agent (the “Investment Agent”) and the entities named as original guarantors therein

We refer to (i) the Murabaha Agreement; and (ii) the letter dated 17 June 2014 from the Exit Purchaser to the Investment Agent (the “Waiver and Consent Request Letter”). Terms defined in the Murabaha Agreement and the Waiver and Consent Request Letter shall have the same meaning when used in this letter.

1. WAIVERS AND CONSENT

You have asked the Participants to waive the following provisions of the Finance Documents to allow the Exit Purchaser withdraw the Waiver Amount from the Mandatory Prepayment Account before the remainder of the balance of the Mandatory Prepayment Account is applied in prepayment of the outstanding Facilities on the next Deferred Payment Date, which is on 26 June 2014:

- (a) a waiver of the requirements of paragraph (b)(ii) of Clause 9.4 (*Proceeds*) of the Murabaha Agreement only to the extent that it requires the Exit Purchaser to apply the Waiver Amount in prepayment of the Cost Price elements of Deferred Sale Prices;
- (b) a waiver of the requirements of paragraph (f) of Clause 9.6 (*Retention Account, Mandatory Prepayment Account and Holding Account*) only to the extent that it requires the Facility Limit to be reduced by an amount equal to the Waiver Amount;
- (c) a waiver of the requirements of paragraph (i) of Clause 9.6 (*Retention Account, Mandatory Prepayment Account and Holding Account*) of the Murabaha Agreement only to the extent that it authorises the Investment Agent to apply the Waiver Amount in prepayment of the Cost Price elements of Deferred Sale Prices; and
- (d) a waiver of the requirements of Clause 7.3 (*Protection of Security*) of the account charge, dated 17 September 2013, among the Exit Purchaser, the Security Agent and the Investment Agent relating to the Mandatory Prepayment Account only to the extent required for the Exit Purchaser to make a one-time withdrawal of the Waiver Amount from the Mandatory Prepayment Account,

together, the “Requested Waivers”.

Subject to the other provisions of this letter, and acting on the instructions of all of the Participants, we hereby confirm that the Participants have granted the Requested Waivers.

2. CONDITIONS

The Waivers will take effect on the date on which the Investment Agent has received all of the following (the “**Effective Date**”):

- (a) counterpart signature pages of this letter duly executed by the Exit Purchaser and the Investment Agent;
- (b) payment of the Participant Administration Fee (defined below) in accordance with paragraph 3 below; and
- (c) consents to the Waivers from all of the Participants.

3. PARTICIPANT ADMINISTRATION FEE

The Exit Purchaser shall pay, or procure that one or more other Obligor shall pay, to the Investment Agent (for the account of each Participant in the proportion that its Participation bears to the aggregate Participations of the Participants) on 26 June 2014 or, if earlier, the date on which the Investment Agent notifies the Exit Purchaser that all Participants have given their consent to the execution of this letter by the Investment Agent, a non-refundable administrative fee of 0.25% of the aggregate Participations of the Participants as at the date of this letter (the “**Participant Administration Fee**”), which shall be fully earned on the date of this letter. Failure to pay the Participant Administration Fee shall constitute an immediate Event of Default.

4. REPRESENTATIONS AND WARRANTIES

The Exit Purchaser makes the representations and warranties set out in the following provisions of this paragraph 4 to each Finance Party and acknowledges that the Waivers have been granted in full reliance on those representations and warranties. The representations and warranties in this paragraph 4 are made on the date of this letter and shall be deemed to be repeated on the Effective Date.

4.1 Binding obligations

Subject to the Legal Reservations:

- (a) it has duly executed and delivered this letter; and
- (b) the obligations expressed to be assumed by it in this letter are legal, valid, binding and enforceable obligations.

4.2 Non-conflict with other obligations

The entry into and performance by it of this letter do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) the constitutional documents of any member of the Group; or
- (c) any agreement or instrument binding upon it or any member of the Group or any of its or any member of the Group’s assets or constitute a default or termination event (however described) under any such agreement or instrument.

4.3 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this letter.

4.4 Validity and admissibility in evidence

Subject to the Legal Reservations, all Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this letter; and
 - (b) to make this letter admissible in evidence in its Relevant Jurisdictions,
- have been obtained or effected and are in full force and effect.

4.5 No default

No Default or Event of Default is continuing.

4.6 Waiver Request Disposals

- (a) Each Waiver Request Disposal was a Permitted Disposal at the time of such Disposal, and such Disposal was not in breach of Clause 15.14 (*Disposals*) of the Murabaha Agreement or any other term of the Finance Documents.
- (b) It deducted from the cash proceeds received by the members of the Group from the Waiver Request Disposals only those amounts described in (A), (B) and (C) of the definition of "Disposal Proceeds" in Clause 9.4 (*Proceeds*) of the Murabaha Agreement before transferring all of the remaining cash proceeds to the Mandatory Prepayment Account.

4.7 Incorporation of Repeating Representations

Each of the Repeating Representations is true and correct in all material respects on the Effective Date, except for representations qualified by materiality or Material Adverse Effect, in which case such representations and warranties are true and correct in all respects on the Effective Date (or such earlier date as may be expressly referenced in the relevant Repeating Representation).

5. RESERVATION OF RIGHTS

The Waivers are given strictly on the basis of the terms of this letter and without prejudice to the rights of the Finance Parties. Nothing in this letter shall be deemed to constitute a further waiver of any Event or Default or any further consent under any Finance Document. The terms of the Finance Documents remain in full force and effect.

6. MISCELLANEOUS

- (a) This letter is designated as a Finance Document.
- (b) Unless expressly provided to the contrary in this Amendment, a person who is not a party to this Amendment has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this letter.

- (c) The Investment Agent executes this letter for itself and on behalf of each other Participant pursuant to the authority granted by paragraph (b) of Clause 27.1 (*Required consents*) of the Investment Agency Agreement.
- (d) The Parent executes this letter for itself and on behalf of each other Obligor pursuant to the authority granted by Clause 1.4 (*Obligors' Agent*) of the Investment Agency Agreement.
- (e) The provisions of Clauses 17 (*Fees and Expenses*), 18 (*Indemnities*), 20 (*Miscellaneous*), 21 (*Notices*) and 23 (*Governing Law and Dispute Resolution*) of the Murabaha Agreement and Clause 21 (*Payment Mechanics*) of the Investment Agency Agreement are hereby incorporated herein by reference.
- (f) This letter may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this letter.

7. GOVERNING LAW

This letter and any non-contractual obligations arising out of or in relation to it shall be governed by and construed in accordance with English law.

Yours faithfully,

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for and on behalf of the Investment Agent
on behalf of itself and the Participants

We agree to the terms of this letter:

.....

for and on behalf of **RA HOLDCO 2 LLC**
as the Exit Purchaser

We acknowledge and agree to the terms of this letter:

.....

for and on behalf of **RA HOLDCO 1 LIMITED**
on behalf of the Obligors